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# Emergency Rules

**DECLARATION OF EMERGENCY**

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

Turtles (LAC 7:XXI.1909)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:2358.2 and 3:2358.10, notice is hereby given that the Department of Agriculture and Forestry is, by Emergency Rule, amending LAC 7:XXI.1909 regarding requirements for international shipments of turtles. The Emergency Rule was initially published at LR 42:512 and was last published at LR 43:1512 (August 20, 2017).

Currently, LAC 7:XXI.1909 requires a health certificate and certified laboratory report accompany all international shipments, irrespective of whether the country of destination requires the same. Louisiana is the only state in the nation with these exit requirements in lieu of following the entry requirements for the country of destination. The current regulation is overly burdensome and adds additional cost to Louisiana turtle farmers attempting to ship their commodities internationally. By amending LAC 7:XXI.1909 to require a health certificate and certified laboratory report when required by the country of destination, instead of for every international shipment, Louisiana turtle farmers will no longer be subject to an unfair trade disadvantage.

This Rule shall have the force and effect of law on the date of signature, December 11, 2017, and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry, or until permanent rules are promulgated in accordance with law.

**Title 7**
**AGRICULTURE AND ANIMALS**
**Part XXI. Animals and Animal Health**
**Chapter 19. Turtles (Formerly Chapter 23)**
**§1909. Movement of Turtle Eggs and Turtles (Formerly §2307)**

A. The department shall regulate the movement of turtles or turtle eggs by licensed pet turtle farmers and procedures shall include, but not be limited to, shipment into local and international commerce, as well as shipment to certified laboratories.

1. All turtles or eggs leaving a licensed turtle farm bound for a certified laboratory shall be accompanied by a certificate of inspection. A health certificate from a Louisiana licensed veterinarian stating that the turtles and/or eggs originated from a Louisiana licensed pet turtle farm shall accompany all shipments into international commerce if required by the country of destination. Each health certificate shall identify the final destination of the turtles or eggs they accompany.

A.2. - A.6. …

7. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package. Turtles or eggs intended for international commerce shall be accompanied by a health certificate and/or a certified laboratory report if either is required by the country of destination.

A.8. - A.9. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014), LR 44:

Mike Strain, D.V.M.
Commissioner

1712#055

**DECLARATION OF EMERGENCY**

**Office of the Governor**
**Division of Administration**
**Tax Commission**

Ad Valorem Taxation
(LAC 61:V.101, 303, 304, 701, 703, 706, 907, 1103, 1307, 1501, 1503, 1504, 2503 and 3501)

The Louisiana Tax Commission exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations. The adoption date for this Emergency Rule is December 7, 2017.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2018. Cost indexes required to finalize these assessment tables are not available to this office until late October 2017. The effective date of this Emergency Rule is January 1, 2018.

Pursuant to the Administrative Procedure Act, this Emergency Rule shall be in effect for a maximum of 120 days or until adoption of the Final Rule or another Emergency Rule, whichever occurs first.

**Title 61**
**REVENUE AND TAXATION**
**Part V. Ad Valorem Taxation**
**Chapter 1. Constitutional and Statutory Guides to Property Taxation**
**§101. Constitutional Principles for Property Taxation**

A. - F.3.h. …

G. Special Assessment Level

1. - 1.d.…

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment,

exceeds $73,851 for tax year 2018 (2019 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. …

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:528 (March 2014), LR 41:671 (April 2015), LR 42:744 (May 2016), LR 43:648 (April 2017), LR 44:

**Chapter 3. Real and Personal Property**

**§303. Real Property**

A. - B.2. …

C. In assessing affordable rental housing, the income approach is recommended. As defined in this Section, *affordable rental housing* means residential housing consisting of one or more rental units, the construction and/or rental of which is subject to Section 42 of the Internal Revenue Code (26 USC 42), the Home Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act (42 USC 12741 et seq.), the Federal Home Loan Banks Affordable Housing Program established pursuant to the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 (Public Law 101-73), or any other federal, state or similar program intended to provide affordable housing to persons of low or moderate income and the occupancy and maximum rental rates of such housing are restricted based on the income of the persons occupying such housing.

1. When utilizing the income approach in appraising affordable rental housing as defined herein, the total potential and/or anticipated rental income a property may generate shall be limited by the covenants and restrictions that burden the property. Hypothetical (or anticipated) market rent shall not be utilized in appraising affordable rental housing without taking into account the covenants and restrictions burdening the property.

2. Audited financial statements shall be submitted to the assessor as an attachment to the LAT filing, or as soon thereafter as practicable, but no later than June 15 of each year. For properties under construction and newly constructed property prior to the first full year of operation, the owner shall provide net operating income based on projected or pro-forma operating income and expense information.

3. The capitalization rate shall be set by the Louisiana Tax Commission in conjunction with its Rulemaking Session.

a. It is recommended that the capitalization rate for affordable rental housing properties categorized as Tier 1 shall be within a range of 5.5-6.5 percent, increased by the effective tax rate; for affordable rental housing properties categorized as Tier 2 shall be within a range of 6.5-7.5 percent, increased by the effective tax rate; and for affordable rental housing properties categorized as Tier 3 shall be within a range of 7.5-8.5 percent, increased by the effective tax rate. The Tiers are as established and defined by the Real Estate Research Corporation for Apartment Investment Properties. These capitalization rates shall remain in effect until modified by the Louisiana Tax Commission in accordance with its rulemaking authority.

4. When performing a valuation of any affordable rental housing property, the assessor shall not consider any of the following in determining fair market value:

a. Income tax credits available to the property under Section 42 of the Internal Revenue Code.

b. Below-market interest rate on financing obtained under the Home Investment Partnership Program under the Cranston-Gonzales National Affordable Housing Act, or the Federal Home Loan Bank Affordable Housing Program established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989.

c. Any other federal, state, or similar program intended to provide or finance affordable rental housing to persons of low or moderate income and requiring restricted occupancy and rental rates based on the income of the persons occupying such housing.

NOTE: Also see, Chapter 1, §111.D. thru D.3. and Chapter 2, §213.G. thru G.3.

5. The income approach is recommended when assessing affordable rental housing. However, if another approach to value is utilized, the covenants and restrictions burdening the property must be considered and given the appropriate and proportional weight in the valuation process.

a. Although not recommended, if the sales comparison (market) approach is utilized to value affordable rental housing, the assessor's office must compare sales of comparable rent restricted properties. For affordable rental housing properties, the assessor must either use sales of other affordable rental housing properties (with the same or substantially similar restrictions and covenants) or, if that data isn't available, calculate adjustments to the sales of non-rent restricted, but otherwise comparable, properties. The assessor must specifically consider the restrictions on rent, transferability of the property, and the other covenants burdening the subject property in calculating and applying these adjustments.

b. Although not recommended, if the cost approach is utilized to value affordable rental housing, the assessor must calculate and subtract economic and functional obsolescence due to the restrictions on rent, the transferability of the property, and the other covenants burdening the subject property from the replacement cost. The assessor must consider all of the covenants burdening the subject property in calculating and applying obsolescence.

6. If an approach other than the income approach is utilized to value affordable rental housing, the assessor should also perform an income approach to value to verify the accuracy of the value determined by the other approach(es). If the income approach to value is substantially different (more than 10 percent) than the other approach(es) to value, it is strongly recommended that the income approach to value be used to ensure a fair and accurate valuation and assessment of the subject property.

D. - E. …

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

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 42:745 (May 2016), LR 43:650 (April 2017), LR 44:

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

A. …

* * *

B. …

* * *

C. Electronic Tax Roll Export Specifications

* * *

| Assessment Information (Assmt.txt) (Required) | | | | |
|---|---|---|---|---|
| **Field Name** | **Field Type** | **Field Length** | **Required** | **Comments** |
| tax_year | Numeric | 4 | Yes | Tax year submitting (ex. 1999, 2000) |
| * * * | * * * | * * * | * * * | * * * |
| assessment_status | Character | 2 | Yes | "AC" = Active, "AJ" = Adjudicated, "EX" = Exempt/Tax Free, "TE" = Ten Year Exemption, "RE" = Restoration and "OT" = Other |
| homestead_exempt | Numeric | 1 | Yes | 0 = None (default), 1 = homestead exemption, 2 = 100% Disabled Vet Homestead and 3 = 100% Unmarried Surviving Spouse of Active Duty Homestead |
| * * * | * * * | * * * | * * * | * * * |

| Assessment Value Information (Avalue.txt) (Required) | | | | |
|---|---|---|---|---|
| **Field Name** | **Field Type** | **Field Length** | **Required** | **Comments** |
| tax_year | Numeric | 4 | Yes | Tax year submitting (ex. 1999, 2000) |
| * * * | * * * | * * * | * * * | * * * |
| homestead_credit | Numeric | 6 | Yes | Assessed value to be credited by Homestead Exemption (Not to exceed 15,000 of Assessed Value) |
| * * * | * * * | * * * | * * * | * * * |

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:529 (March 2014), LR 41:672 (April 2015), LR 42:745 (May 2016), LR 43:651 (April 2017), LR 44:

## Chapter 7. Watercraft

**§701. Guidelines for Ascertaining Fair Market Value of Watercraft**

A. General. Watercraft, other than those employed in interstate commerce, are subject to valuation and assessment by parish assessors. Gasoline powered watercraft and vessels employed in fisheries activities for human consumption are exempt from property taxation. As with other forms of personal property, watercraft are to be taxed where situated on January 1. Fair market value is the standard for valuation of watercraft. The procedures for valuation of watercraft follow.

B. Valuation

1. Fair market value is the valuation standard for watercraft. When using the cost approach, the assessor shall estimate the fair market value of each vessel having situs in his parish through use of the information provided him on LAT Form 11.

2. The same procedure shall be used as for other forms of machinery and equipment. That is, cost of the vessel will be brought up to current value through use of the appropriate index and depreciated based on the effective age of the vessel. The appropriate cost index, percent good factors and composite multipliers appear in Tables 703.A and 703.B. Obsolescence may be applied according to days worked as per Table 706. Consideration of additional obsolescence may be granted upon showing evidence of loss, substantiated by the taxpayer in writing.

3. Consideration of Obsolescence When Using the Cost Approach. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or

functional obsolescence shall be given. If economic and/or functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

4. Gulf of Mexico Watercraft Fleet. When determining the three approaches to value, the assessor may use a variable annual income approach, as compiled by a certified marine surveyor-appraisal company, at the request of the Louisiana Assessors' Association, for weighting and correlating current market conditions as a part of the fair market valuation process.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Sections 18 and 21, R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:922 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 44:

### §703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

| Table 703.A<br>Floating Equipment—Motor Vessels | | | | |
|---|---|---|---|---|
| Cost Index (Average) | | Average Economic Life<br>12 Years | | |
| Year | Index | Effective Age | Percent Good | Composite Multiplier |
| 2017 | 0.990 | 1 | 94 | .93 |
| 2016 | 1.010 | 2 | 87 | .88 |
| 2015 | 1.002 | 3 | 80 | .80 |
| 2014 | 1.011 | 4 | 73 | .74 |
| 2013 | 1.024 | 5 | 66 | .68 |
| 2012 | 1.032 | 6 | 58 | .60 |
| 2011 | 1.062 | 7 | 50 | .53 |
| 2010 | 1.095 | 8 | 43 | .47 |
| 2009 | 1.087 | 9 | 36 | .39 |
| 2008 | 1.118 | 10 | 29 | .32 |
| 2007 | 1.162 | 11 | 24 | .28 |
| 2006 | 1.226 | 12 | 22 | .27 |
| 2005 | 1.283 | 13 | 20 | .26 |

B. Floating Equipment—Barges (Non-Motorized)

| Table 703.B<br>Floating Equipment—Barges (Non-Motorized) | | | | |
|---|---|---|---|---|
| Cost Index<br>Average | | Average Economic Life<br>20 Years | | |
| Year | Index | Effective Age | Percent Good | Composite Multiplier |
| 2017 | 0.990 | 1 | 97 | .96 |
| 2016 | 1.010 | 2 | 93 | .94 |
| 2015 | 1.002 | 3 | 90 | .90 |
| 2014 | 1.011 | 4 | 86 | .87 |
| 2013 | 1.024 | 5 | 82 | .84 |
| 2012 | 1.032 | 6 | 78 | .80 |
| 2011 | 1.062 | 7 | 74 | .79 |
| 2010 | 1.095 | 8 | 70 | .77 |
| 2009 | 1.087 | 9 | 65 | .71 |
| 2008 | 1.118 | 10 | 60 | .67 |
| 2007 | 1.162 | 11 | 55 | .64 |
| 2006 | 1.226 | 12 | 50 | .61 |
| 2005 | 1.283 | 13 | 45 | .58 |
| 2004 | 1.379 | 14 | 40 | .55 |
| 2003 | 1.427 | 15 | 35 | .50 |
| 2002 | 1.451 | 16 | 31 | .45 |
| 2001 | 1.460 | 17 | 27 | .39 |
| 2000 | 1.472 | 18 | 24 | .35 |
| 1999 | 1.499 | 19 | 22 | .33 |
| 1998 | 1.503 | 20 | 21 | .32 |
| 1997 | 1.516 | 21 | 20 | .30 |

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:652 (April 2017), LR 44:

### §706. Table—Watercraft

| Table 706<br>Economic Obsolescence for Days Worked | | |
|---|---|---|
| No. of Days Worked | Obsolescence Amount | Manual Adj. Factor |
| 329 and Over | 0 | 1.00 |
| 274 to 328 | 10% | .90 |
| 219 to 273 | 20% | .80 |
| 164 to 218 | 30% | .70 |
| 111 to 163 | 40% | .60 |
| 54 to 110 | 50% | .50 |
| Less than 53 | 60% | .40 |
| Stacked Current Year | 75% | .25 |
| Stacked More Than One Year | 90% | .10 |

AUTHORITY NOTE:Promulgated in accordance with La. Const. of 1974, Article VII, §18 and §21, R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Tax Commission, LR 44:

## Chapter 9. Oil and Gas Properties

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

A. - A.7. …

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

| Table 907.A.1<br>Oil, Gas and Associated Wells; Region 1—North Louisiana | | | | |
|---|---|---|---|---|
| | Cost—New<br>By Depth, Per Foot | | 15% of Cost—New<br>By Depth, Per Foot | |
| Producing Depths | $ Oil | $ Gas | $ Oil | $ Gas |
| 0-1,249 ft. | 36.69 | 128.43 | 5.50 | 19.26 |
| 1,250-2,499 ft. | 33.13 | 94.43 | 4.97 | 14.16 |
| 2,500-3,749 ft. | 26.04 | 62.54 | 3.91 | 9.38 |
| 3,750-4,999 ft. | 36.02 | 62.32 | 5.40 | 9.35 |

| | | | | |
|---|---|---|---|---|
| 5,000-7,499 ft. | 42.35 | 60.83 | 6.35 | 9.12 |
| 7,500-9,999 ft. | 92.84 | 81.99 | 13.93 | 12.30 |
| 10,000-12,499 ft. | 270.73 | 99.46 | 40.61 | 14.92 |
| 12,500-14,999 ft. | 440.29 | 150.18 | 66.04 | 22.53 |
| 15,000-17,499 ft. | 563.53 | 171.25 | 84.53 | 25.69 |
| 17,500-Deeper ft. | N/A | 479.02 | N/A | 71.85 |

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

| Table 907.A.2<br>Oil, Gas and Associated Wells; Region 2—South Louisiana | | | | |
|---|---|---|---|---|
| Producing Depths | Cost—New By Depth, Per Foot | | 15% of Cost—New By Depth, Per Foot | |
| | $ Oil | $ Gas | $ Oil | $ Gas |
| 0-1,249 ft. | 282.13 | 127.59 | 42.32 | 19.14 |
| 1,250-2,499 ft. | 97.43 | 212.06 | 14.61 | 31.81 |
| 2,500-3,749 ft. | 95.14 | 169.07 | 14.27 | 25.36 |
| 3,750-4,999 ft. | 83.86 | 135.25 | 12.58 | 20.29 |
| 5,000-7,499 ft. | 114.57 | 153.64 | 17.19 | 23.05 |
| 7,500-9,999 ft. | 156.29 | 160.86 | 23.44 | 24.13 |
| 10,000-12,499 ft. | 213.12 | 210.27 | 31.97 | 31.54 |
| 12,500-14,999 ft. | 279.57 | 272.02 | 41.94 | 40.80 |
| 15,000-17,499 ft. | 452.85 | 364.21 | 67.93 | 54.63 |
| 17,500-19,999 ft. | 552.92 | 515.88 | 82.94 | 77.38 |
| 20,000-Deeper ft. | 295.24 | 774.50 | 44.29 | 116.18 |

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

| Table 907.A.3<br>Oil, Gas and Associated Wells;<br>Region 3—Offshore State Waters* | | | | |
|---|---|---|---|---|
| | Cost—New By Depth, Per Foot | | 15% Of Cost—New By Depth, Per Foot | |
| Producing Depths | $ Oil | $ Gas | $ Oil | $ Gas |
| 0 -1,249 ft. | N/A | N/A | N/A | N/A |
| 1,250 -2,499 ft. | 1,414.25 | 1,033.39 | 212.14 | 155.01 |
| 2,500 -3,749 ft. | 727.23 | 794.20 | 109.08 | 119.13 |
| 3,750 -4,999 ft. | 1,038.04 | 728.24 | 155.71 | 109.24 |
| 5,000 -7,499 ft. | 516.58 | 674.51 | 77.49 | 101.18 |
| 7,500 -9,999 ft. | 654.92 | 638.29 | 98.24 | 95.74 |
| 10,000 -12,499 ft. | 741.43 | 646.99 | 111.21 | 97.05 |
| 12,500 -14,999 ft. | 644.83 | 629.65 | 96.72 | 94.45 |
| 15,000 -17,499 ft. | 444.44 | 653.32 | 66.67 | 98.00 |
| 17,500 - 19,999 ft. | 221.38 | 624.59 | 33.21 | 93.69 |
| 20,000 - Deeper ft. | N/A | 981.79 | N/A | 147.27 |

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

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

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

2. Serial Number to Percent Good Conversion Chart

| Table 907.B.2<br>Serial Number to Percent Good Conversion Chart | | | |
|---|---|---|---|
| Year | Beginning Serial Number | Ending Serial Number | 20 Year Life Percent Good |
| 2017 | 249951 | Higher | 97 |
| 2016 | 249476 | 249950 | 93 |
| 2015 | 248832 | 249475 | 90 |
| 2014 | 247423 | 248831 | 86 |
| 2013 | 245849 | 247422 | 82 |
| 2012 | 244268 | 245848 | 78 |
| 2011 | 242592 | 244267 | 74 |
| 2010 | 240636 | 242591 | 70 |
| 2009 | 239277 | 240635 | 65 |
| 2008 | 236927 | 239276 | 60 |
| 2007 | 234780 | 236926 | 55 |
| 2006 | 232639 | 234779 | 50 |
| 2005 | 230643 | 232638 | 45 |
| 2004 | 229010 | 230642 | 40 |
| 2003 | 227742 | 229009 | 35 |
| 2002 | 226717 | 227741 | 31 |
| 2001 | 225352 | 226716 | 27 |
| 2000 | 223899 | 225351 | 24 |
| 1999 | 222882 | 223898 | 22 |
| 1998 | 221596 | 222881 | 21 |
| 1997 | Lower | 221595 | 20 * |
| VAR. | 900000 | Higher | 50 |

*Reflects residual or floor rate.

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

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013). LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:653 (April 2017), LR 44:

## Chapter 11. Drilling Rigs and Related Equipment

### §1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

| Table 1103.A Land Rigs | | |
|---|---|---|
| **Depth "0" to 7,000 Feet** | | |
| **Depth (Ft.)** | **Fair Market Value** | **Assessment** |
| | $ | $ |
| 3,000 | 249,100 | 37,400 |
| 4,000 | 314,100 | 47,100 |
| 5,000 | 346,600 | 52,000 |
| 6,000 | 401,500 | 60,200 |
| 7,000 | 514,800 | 77,200 |
| **Depth 8,000 to 10,000 Feet** | | |
| **Depth (Ft.)** | **Fair Market Value** | **Assessment** |
| | $ | $ |
| 8,000 | 705,900 | 105,900 |
| 9,000 | 979,800 | 147,000 |
| 10,000 | 1,329,500 | 199,400 |
| **Depth 11,000 to 15,000 Feet** | | |
| **Depth (Ft.)** | **Fair Market Value** | **Assessment** |
| | $ | $ |
| 11,000 | 1,738,700 | 260,800 |
| 12,000 | 2,183,500 | 327,500 |
| 13,000 | 2,635,300 | 395,300 |
| 14,000 | 3,062,900 | 459,400 |
| 15,000 | 3,434,900 | 515,200 |
| **Depth 16,000 to 20,000 Feet** | | |
| **Depth (Ft.)** | **Fair Market Value** | **Assessment** |
| | $ | $ |
| 16,000 | 3,721,900 | 558,300 |
| 17,000 | 3,899,300 | 584,900 |
| 18,000 | 3,948,900 | 592,300 |
| 19,000 | 3,862,100 | 579,300 |
| 20,000 | 3,641,500 | 546,200 |
| **Depth 21,000 + Feet** | | |
| **Depth (Ft.)** | **Fair Market Value** | **Assessment** |
| | $ | $ |
| 21,000 | 3,303,700 | 495,600 |
| 25,000 + | 2,881,500 | 432,200 |

1. - 2. ...

B. Jack-Ups

| Table 1103.B Jack-Ups | | | |
|---|---|---|---|
| **Type** | **Water Depth Rating** | **Fair Market Value** | **Assessment** |
| IC | 0-199 FT. | $ 54,900,000 | $ 8,235,000 |
| | 200-299 FT. | 109,900,000 | 16,485,000 |
| | 300 FT. and Deeper | 219,400,000 | 32,910,000 |
| | | | |
| IS | 0-199 FT. | 16,500,000 | 2,475,000 |
| | 200-299 FT. | 27,500,000 | 4,125,000 |
| | 300 FT. and Deeper | 33,000,000 | 4,950,000 |
| | | | |
| MC | 0-199 FT | 5,500,000 | 825,000 |
| | 200-299 FT. | 11,000,000 | 1,650,000 |
| | 300 FT. and Deeper | 43,900,000 | 6,585,000 |
| | | | |
| MS | 0-249 FT. | 11,500,000 | 1,725,000 |
| | 250 FT. and Deeper | 22,700,000 | 3,405,000 |

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

C. Semisubmersible Rigs

| Table 1103.C Semisubmersible Rigs | | |
|---|---|---|
| **Water Depth Rating** | **Fair Market Value** | **Assessment** |
| | $ | $ |
| 0- 800 FT. | 50,200,000 | 7,530,000 |
| 801-1,800 FT. | 90,000,000 | 13,500,000 |
| 1,801-2,500 FT. | 164,900,000 | 24,735,000 |
| 2,501FT. and Deeper | 517,400,000 | 77,610,000 |

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

C.1. - C.3.b.i. …

D. Well Service Rigs Land Only

| Table 1103.D Well Service Rigs Land Only | | | | |
|---|---|---|---|---|
| **Class** | **Mast** | **Engine** | **Fair Market Value (RCNLD)** | **Assessment** |
| I | 71' X 125M#<br>71' X 150M#<br>72' X 125M#<br>72' X 150M#<br>75' X 150M# | C-7<br>50 SERIES<br>6V71 | 105,000 | 15,800 |
| II | 96' X 150M#<br>96' X 180M#<br>96' X 185M#<br>96' X 200M#<br>96' X 205M#<br>96' X 210M#<br>96' X 212M#<br>96' X 215M# | C-11<br>50 SERIES<br>8V71 | 145,000 | 21,800 |
| III | 96' X 240M#<br>96' X 250M#<br>96' X 260M#<br>102' X 215M# | C-11<br>50 SERIES<br>8V92 | 185,000 | 27,800 |
| IV | 102' X 224M#<br>102' X 250M#<br>103' X 225M#<br>103' X 250M#<br>104' X 250M#<br>105' X 225M#<br>105' X 250M# | C-15<br>60 SERIES<br>12V71 | 225,000 | 33,800 |
| V | 105' X 280M#<br>106' X 250M#<br>108' X 250M#<br>108' X 260M#<br>108' X 268M#<br>108' X 270M#<br>108' X 300M# | C-15<br>60 SERIES<br>12V71<br>12V92 | 265,000 | 39,800 |
| VI | 110' X 250M#<br>110' X 275M#<br>112' X 300M#<br>112' X 350M# | C-15<br>60 SERIES<br>12V71<br>(2) 8V92 | 305,000 | 45,800 |
| VII | 117' X 215M# | C-15<br>60 SERIES<br>(2) 8V92<br>(2) 12V71 | 335,000 | 50,300 |

D.1. - E.1. …

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990),

LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:678 (April 2015), LR 42:748 (May 2016), LR 43:654 (April 2017), LR 44:

## Chapter 13. Pipelines

### §1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

| Table 1307.A<br>Current Costs for Other Pipelines<br>(Onshore) | | |
|---|---|---|
| **Diameter (inches)** | **Cost per Mile** | **15% of Cost per Mile** |
| 2 | $ 169,690 | $ 25,450 |
| 4 | 200,410 | 30,060 |
| 6 | 236,700 | 35,510 |
| 8 | 279,550 | 41,930 |
| 10 | 330,160 | 49,520 |
| 12 | 389,930 | 58,490 |
| 14 | 460,530 | 69,080 |
| 16 | 543,910 | 81,590 |
| 18 | 642,380 | 96,360 |
| 20 | 758,680 | 113,800 |
| 22 | 896,030 | 134,400 |
| 24 | 1,058,250 | 158,740 |
| 26 | 1,249,840 | 187,480 |
| 28 | 1,476,120 | 221,420 |
| 30 | 1,743,370 | 261,510 |
| 32 | 2,059,000 | 308,850 |
| 34 | 2,431,770 | 364,770 |
| 36 | 2,872,030 | 430,800 |
| 38 | 3,392,000 | 508,800 |
| 40 | 4,006,100 | 600,920 |
| 42 | 4,731,390 | 709,710 |
| 44 | 5,587,990 | 838,200 |
| 46 | 6,599,670 | 989,950 |
| 48 | 7,794,510 | 1,169,180 |

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

| Table 1307.B<br>Current Costs for Other Pipelines<br>(Offshore) | | |
|---|---|---|
| **Diameter (inches)** | **Cost per Mile** | **15% of Cost per Mile** |
| 2 | $ 986,640 | $ 148,000 |
| 4 | 990,090 | 148,510 |
| 6 | 994,340 | 149,150 |
| 8 | 1,011,910 | 151,790 |
| 10 | 1,036,720 | 155,510 |
| 12 | 1,068,760 | 160,310 |
| 14 | 1,108,030 | 166,200 |
| 16 | 1,154,550 | 173,180 |
| 18 | 1,208,290 | 181,240 |
| 20 | 1,269,270 | 190,390 |
| 22 | 1,337,490 | 200,620 |
| 24 | 1,412,940 | 211,940 |
| 26 | 1,495,630 | 224,340 |
| 28 | 1,585,550 | 237,830 |
| 30 | 1,682,710 | 252,410 |
| 32 | 1,787,100 | 268,070 |
| 34 | 1,898,730 | 284,810 |
| 36 | 2,017,590 | 302,640 |
| 38 | 2,143,680 | 321,550 |
| 40 | 2,277,010 | 341,550 |
| 42 | 2,417,580 | 362,640 |
| 44 | 2,565,380 | 384,810 |
| 46 | 2,720,420 | 408,060 |
| 48 | 2,882,690 | 432,400 |

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

| Table 1307.C<br>Pipeline Transportation Allowance for Physical Deterioration (Depreciation) | |
|---|---|
| **Actual Age (Yrs)** | **26.5 Year Life Percent Good** |
| 1 | 98 |
| 2 | 96 |
| 3 | 94 |
| 4 | 91 |
| 5 | 88 |
| 6 | 86 |
| 7 | 83 |
| 8 | 80 |
| 9 | 77 |
| 10 | 73 |
| 11 | 70 |
| 12 | 67 |
| 13 | 63 |
| 14 | 60 |
| 15 | 56 |
| 16 | 52 |
| 17 | 48 |
| 18 | 44 |
| 19 | 39 |
| 20 | 35 |
| 21 | 33 |
| 22 | 30 |
| 23 | 28 |
| 24 | 26 |
| 25 | 25 |
| 26 | 23 |
| 27 and older | 20 * |

* Reflects residual or floor rate.

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

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

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

38:809 (March 2012), LR 39:496 (March 2013), LR 40:537 (March 2014), LR 41:680 (April 2015), LR 42:748 (May 2016), LR 43:655 (April 2017), LR 44:

## Chapter 15. Aircraft

### §1501. Guidelines for Ascertaining the Fair Market Value of Aircraft

A. General

1. Airplanes and helicopters, except those owned by a company engaged in the business of transporting passengers and/or property for hire on regularly scheduled flights, which are assessed as public service properties, are subject to valuation and assessment by parish assessors.

2. Antique airplanes, those manufactured at least 25 years ago, and not being used in commerce, are exempt from personal property taxes. Any aircraft weighing less than 6,000 pounds, which is owned by a private individual and not used for commercial or profit-making purposes is also exempt from personal property taxes (R.S. 47:6001).

3. Crop dusting airplanes used exclusively for agricultural purposes are exempt from personal property taxes (R.S. 47:1707).

4. As with other forms of personal property, aircraft are to be taxed where situated on January 1. Fair market value is the standard for valuation of aircraft. When determining the three approaches to value, the assessor may use any industry recognized manual/manuals for weighting and correlating current market conditions as a part of the fair market valuation process. The procedures for discovery and valuation of aircraft follow.

B. Valuation When Using the Cost Approach. Fair market value is the valuation standard for aircraft. The assessor shall estimate the fair market value of each aircraft having situs in his parish through use of the information provided him on LAT Form 15. The same procedure shall be used as for other forms of machinery and equipment. That is, the original cost of the aircraft will be brought up to current value through use of the appropriate cost index, percent good factors and composite multipliers appearing in Table 1503.

C. Offshore oil and gas helicopters providing transportation and support services engaged in coastal trade shall be valued according to procedures established in paragraphs A. and B. of this chapter with obsolescence that may be granted according to Table 1504. Consideration of additional obsolescence may be granted upon showing evidence of loss, substantiated by the taxpayer in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1952, R.S. 47:2323, R.S. 47:2326, R.S. 47:6001 and R.S. 47:1707.

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### §1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

| Table 1503<br>Aircraft (Including Helicopters) | | | | |
|---|---|---|---|---|
| Cost Index (Average) | | Average Economic Life (20 Years) | | |
| Year | Index | Effective Age | Percent Good | Composite Multiplier |
| 2017 | 0.990 | 1 | 97 | .96 |
| 2016 | 1.010 | 2 | 93 | .94 |
| 2015 | 1.002 | 3 | 90 | .90 |
| 2014 | 1.011 | 4 | 86 | .87 |
| 2013 | 1.024 | 5 | 82 | .84 |
| 2012 | 1.032 | 6 | 78 | .80 |
| 2011 | 1.062 | 7 | 74 | .79 |
| 2010 | 1.095 | 8 | 70 | .77 |
| 2009 | 1.087 | 9 | 65 | .71 |
| 2008 | 1.118 | 10 | 60 | .67 |
| 2007 | 1.162 | 11 | 55 | .64 |
| 2006 | 1.226 | 12 | 50 | .61 |
| 2005 | 1.283 | 13 | 45 | .58 |
| 2004 | 1.379 | 14 | 40 | .55 |
| 2003 | 1.427 | 15 | 35 | .50 |
| 2002 | 1.451 | 16 | 31 | .45 |
| 2001 | 1.460 | 17 | 27 | .39 |
| 2000 | 1.472 | 18 | 24 | .35 |
| 1999 | 1.499 | 19 | 22 | .33 |
| 1998 | 1.503 | 20 | 21 | .32 |
| 1997 | 1.516 | 21 | 20 | .30 |

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

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### §1504. Aircraft (Including Helicopters) Table

| Table 1504<br>Economic Obsolescence for Days Contracted | | |
|---|---|---|
| No. of Days Worked | Obsolescence Amount | Manual Adj. Factor |
| 329 & Over | 0 | 1.00 |
| 274 to 328 | 10% | .90 |
| 219 to 273 | 20% | .80 |
| 164 to 218 | 30% | .70 |

| Table 1504<br>Economic Obsolescence for Days Contracted | | |
|---|---|---|
| No. of Days Worked | Obsolescence Amount | Manual Adj. Factor |
| 111 to 163 | 40% | .60 |
| 54 to 110 | 50% | .50 |
| Less than 53 | 60% | .40 |
| Grounded Current Year | 75% | .25 |
| Grounded More Than One Year | 90% | .10 |

AUTHORITY NOTE: Promulgated in accordance with La. Const. of 1974, Article VII, §18 and §21, R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Tax Commission, LR 44:

## Chapter 25. General Business Assets

### §2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. …

* * *

B. Cost Indices

| Table 2503.B<br>Cost Indices | | | |
|---|---|---|---|
| Year | Age | National Average 1926 = 100 | January 1, 2017 = 100* |
| 2017 | 1 | 1612.2 | 0.990 |
| 2016 | 2 | 1580.9 | 1.010 |
| 2015 | 3 | 1593.7 | 1.002 |
| 2014 | 4 | 1578.8 | 1.011 |
| 2013 | 5 | 1558.7 | 1.024 |
| 2012 | 6 | 1545.9 | 1.032 |
| 2011 | 7 | 1503.2 | 1.062 |
| 2010 | 8 | 1457.4 | 1.095 |
| 2009 | 9 | 1468.6 | 1.087 |
| 2008 | 10 | 1427.3 | 1.118 |
| 2007 | 11 | 1373.3 | 1.162 |
| 2006 | 12 | 1302.3 | 1.226 |
| 2005 | 13 | 1244.5 | 1.283 |
| 2004 | 14 | 1157.3 | 1.379 |
| 2003 | 15 | 1118.6 | 1.427 |
| 2002 | 16 | 1100.0 | 1.451 |
| 2001 | 17 | 1093.4 | 1.460 |
| 2000 | 18 | 1084.3 | 1.472 |
| 1999 | 19 | 1065.0 | 1.499 |
| 1998 | 20 | 1061.8 | 1.503 |
| 1997 | 21 | 1052.7 | 1.516 |
| 1996 | 22 | 1036.0 | 1.541 |
| 1995 | 23 | 1020.4 | 1.564 |
| 1994 | 24 | 985.0 | 1.620 |
| 1993 | 25 | 958.0 | 1.666 |
| 1992 | 26 | 939.8 | 1.698 |
| 1991 | 27 | 928.5 | 1.719 |
| 1990 | 28 | 910.2 | 1.754 |
| 1989 | 29 | 886.5 | 1.800 |
| 1988 | 30 | 841.4 | 1.897 |
| 1987 | 31 | 806.9 | 1.978 |

*Reappraisal Date: January 1, 2017 – 1596.1 (Base Year)

* * *

D. Composite Multipliers 2018 (2019 Orleans Parish)

| Table 2503.D<br>Composite Multipliers<br>2018 (2019 Orleans Parish) | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Age | 3 Yr | 5 Yr | 6 Yr | 8 Yr | 10 Yr | 12 Yr | 15 Yr | 20 Yr | 25 Yr | 30 Yr |
| 1 | .69 | .84 | .86 | .89 | .91 | .93 | .94 | .96 | .97 | .97 |
| 2 | .49 | .70 | .74 | .80 | .85 | .88 | .91 | .94 | .96 | .96 |
| 3 | .34 | .52 | .57 | .67 | .76 | .80 | .85 | .90 | .93 | .95 |
| 4 | .16 | .34 | .41 | .55 | .68 | .74 | .80 | .87 | .91 | .94 |
| 5 | | .24 | .31 | .44 | .59 | .68 | .75 | .84 | .89 | .93 |
| 6 | | .19 | .20 | .34 | .51 | .60 | .70 | .80 | .87 | .92 |
| 7 | | | .19 | .28 | .41 | .53 | .66 | .79 | .86 | .91 |
| 8 | | | | .24 | .33 | .47 | .60 | .77 | .85 | .90 |
| 9 | | | | .22 | .26 | .39 | .53 | .71 | .82 | .89 |
| 10 | | | | | .23 | .32 | .48 | .67 | .79 | .88 |
| 11 | | | | | .23 | .28 | .43 | .64 | .79 | .88 |
| 12 | | | | | | .27 | .38 | .61 | .78 | .87 |
| 13 | | | | | | .26 | .33 | .58 | .77 | .87 |
| 14 | | | | | | | .32 | .55 | .77 | .86 |
| 15 | | | | | | | .30 | .50 | .74 | .86 |
| 16 | | | | | | | .29 | .45 | .70 | .86 |
| 17 | | | | | | | | .39 | .64 | .85 |
| 18 | | | | | | | | .35 | .57 | .79 |
| 19 | | | | | | | | .33 | .51 | .76 |
| 20 | | | | | | | | .32 | .45 | .71 |
| 21 | | | | | | | | .30 | .42 | .67 |
| 22 | | | | | | | | | .40 | .62 |
| 23 | | | | | | | | | .38 | .58 |
| 24 | | | | | | | | | .32 | .55 |
| 25 | | | | | | | | | .31 | .52 |
| 26 | | | | | | | | | .30 | .48 |
| 27 | | | | | | | | | | .45 |
| 28 | | | | | | | | | | .40 |
| 29 | | | | | | | | | | .38 |
| 30 | | | | | | | | | | .38 |
| 31 | | | | | | | | | | .37 |

1. Data sources for tables are:
   a. Cost Index—Marshall and Swift Publication Co.;
   b. Percent Good—Marshall and Swift Publication Co.;
   c. Average Economic Life—various.

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

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

Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:681 (April 2015), LR 42:750 (May 2016), LR 43:656 (April 2017), LR 44:

**Chapter 35 Miscellaneous**

**§3501. Service Fees—Tax Commission**

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2014, and ending on June 30, 2018, in connection with services performed by the Tax Commission as follows.

1. A fee for assessing public service property, at the rate of .01 percent of the assessed value, beginning July 1, 2014 and ending on June 30, 2016 and at the rate of .04 percent of the assessed value beginning July 1, 2016 and ending on June 30, 2018, to be paid by each public service property which pays ad valorem taxes.

2. A fee for assessing insurance companies, at the rate of .015 percent of the assessed value, to be paid by each insurance company which pays ad valorem taxes.

3. A fee for assessing financial institutions, at the rate of .015 percent of the assessed value, to be paid by each bank and capital stock association which pays ad valorem taxes.

B. - C.2.b. …

D. In accordance with Act 184 of 1993, the Tax Commission, in addition to powers contained in R.S. 47:1837 et seq., is authorized to make audits or examinations of any taxpayer's return due under R.S. 47:1852 and the property, place of business, books, records, activity and programs of the taxpayer insofar as it may affect, clarify or disclose its tax liability.

1. After procedures as set forth in R.S. 47:1835 relative to notification of tax due to the taxpayer and his time period for protesting such assessment have expired, the Tax Commission shall receive 10 percent of the additional tax, penalty and interest collected. Such funds shall be paid to the Tax Commission and shall be deposited in the Tax Commission Expense Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 41:683 (April 2015), LR 43:662 (April 2017), LR 44:

Lawrence E. Chehardy
Chairman

1712#047

## DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries**
**Wildlife and Fisheries Commission**

2017 Gray Triggerfish Commercial Season Closure

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA Fisheries that the seasons have been closed in adjacent federal waters, the secretary hereby declares:

Effective 12:01 a.m., November 18, 2017, the commercial fishery for gray triggerfish in Louisiana waters will close and remain closed through December 31, 2017. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell gray triggerfish within or without Louisiana waters. The prohibition on sale/purchase of commercially harvested gray triggerfish during the closure does not apply to gray triggerfish that were legally harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by National Marine Fisheries Service that the commercial gray triggerfish season in federal waters of the Gulf of Mexico is closed and will remain closed through December 31, 2017.

Jack Montoucet
Secretary

1712#002

## DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries**
**Wildlife and Fisheries Commission**

Reduction of Sack Limits East of MS River and Sister Lake

In accordance with the emergency provisions of Louisiana Revised Statutes (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 7, 2017 which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being

adversely impacted, notice is hereby given that on November 22, 2017 the Secretary of the Department of Wildlife and Fisheries hereby declares that the daily take and possession limit is reduced to 25 sacks from all Public Oyster Seed Grounds east of the Mississippi River and north of the Mississippi River Gulf Outlet, including Lake Borgne, and Sister Lake Public Oyster Seed Reservation effective one half hour before sunrise on Tuesday, November 28, 2017.

Harvest activities during the season have reduced oyster stocks and continued commercial harvest at the current rate may threaten the long-term sustainability of remaining oyster resources and reefs in these areas. Protection of these remaining oyster reef resources from injury is in the best interest of these public oyster seed grounds.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Jack Montoucet
Secretary

1711#014

## DECLARATION OF EMERGENCY

### Workforce Commission
### Plumbing Board

Plumbers—Continuing Professional Education Programs
(LAC 46:LV.101, 312, 1001 and 1002)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Louisiana State Plumbing Board (board), hereby determines that the adoption of an Emergency Rule for the implementation of amendments to LAC 46:LV.101, 312, 1001 and 1002. The proposed Rule change to §101 is to address a conflict in the current definition of "repair" resulting from the creation of the tradesman plumber license. The proposed Rule change to § 312 is to correct a typographical error relating to the initial registration fee for apprentice plumbers and the initial license fee for tradesman plumbers. The proposed Rule change to §§1001 and 1002 amends the number of continuing education hours required for Tradesman, Journeyman, Master Plumbers, Gas Fitters and Master Gas Fitters and sets forth the required hours for dual license holders. These adjustments will be effective upon publication in the *Louisiana Register* (December 20, 2017).

**Title 46**
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**
**Part LV. Plumbers**

**Chapter 1. Introductory Information**

**§101. Definitions**

* * *

*Repair*—as that term is used in R.S. 37:1367.A, shall mean and be limited to the performance of repairs to existing plumbing, the clearing of stoppages, or repairing leaks. Such repair work shall be performed only by a *journeyman plumber* as defined in §101. *Journeyman Plumber* of these rules, or by a *tradesman plumber* as defined in §101. *Tradesman Plumber* of these rules.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:575 (April 2016), LR 43:541 (March 2017), LR 43:972 (May 2017), amended by the Workforce Commission, Plumbing Board, LR 43:

**Chapter 3. Licenses**

**§312. Fees**

A. The fees and charges of the board relative to apprentice plumbers shall be as follows:

1. initial registration fee—$10;

A.2. - B.3. …

4. initial license fee (this fee to be paid after applicant has successfully passed the exam, in order to receive his first license)—$ 30;

B.5. - I.13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366.D and R.S. 37:1371.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated LR 7:588 (November 1981), amended LR 15:1089 (December 1989), amended by the Department of Employment and Training, Plumbing Board, LR 16:23 (January 1990), LR 17:53 (January 1991), amended by the Department of Labor, Plumbing Board, LR 19:898 (July 1993), LR 19:1594 (December 1993), LR 21:1351 (December 1995), LR 26:327 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 43:545 (March 2017), LR 43:975 (May 2017), amended by the Workforce Commission, Plumbing Board, LR 43:

**Chapter 10. Continuing Professional Education Programs**

**§1001. Tradesman, Journeyman and Master Plumbers**

A. CPE Requirement

1. All persons seeking to renew a tradesman license issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than 3 1/2 hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

2. All persons seeking to renew a journeyman license issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than 3 1/2 hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

3. All persons seeking to renew a master plumber's license or to convert an inactive master plumber's license to an active master plumber's license must attend and show proof of attendance at no less than five hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

4. …

5. A holder of an inactive master plumber's license who seeks to function as a journeyman plumber is required to attend and show proof of attendance at no less than 3 1/2 hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

6. All persons holding and seeking to renew journeyman plumber and gas fitter licenses issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than 4 1/2 hours as set out in this section and in 1002.B.

7. All persons holding and seeking to renew journeyman plumber and master gas fitter licenses issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than six hours as set out in this section and in 1002.B.

8. All persons holding and seeking to renew master plumber and gas fitter licenses issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than six hours as set out in this section and in 1002.B.

9. All persons holding and seeking to renew master plumber and master gas fitter licenses issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than six hours as set out in this section and in 1002.B.

B. - B.1. …

2. The course materials will provide the basis for a minimum of 3 1/2 classroom hours of study for tradesman plumbers and journeyman plumbers. One hour will be in the subjects of health protection, consumer protection or environmental protection, 1/2 hour shall include information concerning the Act, Louisiana State Plumbing Board rules, and two hours covering current industry practices and codes, and subjects from a list approved and published by the Louisiana State Plumbing Board.

3. The course materials will provide the basis for a minimum of five classroom hours of study for master plumbers. One hour will be in the subjects of health protection, consumer protection or environmental protection, 1/2 hour shall include information concerning the Act, Louisiana State Plumbing Board rules, two hours covering current industry practices and codes, and subjects from a list approved and published by the Louisiana State Plumbing Board, and 1 1/2 hours on business topics approved by the Louisiana State Plumbing Board.

4. The Louisiana State Plumbing Board will periodically publish lists of approved and required subjects.

5. The course materials must be presentations of relevant issues and changes within the subject areas as they apply to the plumbing practice in the current market, public health or topics which increase or support the licensee's development of skill and competence.

6. The course materials may not advertise or promote the sale of goods, products or services.

7. The course materials must be printed and bound in perfect/standard, metal coil or ring binder form.

8. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

9. All course materials must have the following characteristics:

a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;

b. appropriate illustrations and graphics to show concepts not easily explained in words; and

c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

10. The provider of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10-point bold type or larger containing the following language:

> "THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (State Year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

11. The provider of course materials will conduct instructor training in the use of course materials.

12. The provider of course materials will be required to have distribution facilities that will ensure prompt distribution of course materials, facsimile ordering and a statewide toll free telephone number for placing orders. The provider of course materials must ship any ordered material within ten business days after the receipt of the order and payment for the course materials.

13. Any individual, business or association who wishes to offer to provide course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality course materials as required in this Section and must include:

a. name and address of individual applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applicant;

c. statement by individual applicant, and each officer, director, trustee or member of governing board as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. maximum fees to be charged for course materials;

f. taxpayer identification number;

g. method for quarterly reporting of course provider, instructors, and licensee evaluations of course materials to the Louisiana State Plumbing Board; and an application fee to be set as provided by law.

14. The provider of course materials must sell course materials to all course providers on request, at a price not to

exceed the maximum fee to be charged as stated on the provider's application.

15. The Louisiana State Plumbing Board may refuse to accept any application for approval as a provider of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate coverage of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

16. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

17. A provider's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

18. To be approved, 20 copies of course materials, including any handouts and audio/visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October 15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier) for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 20 copies each of all course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

19. Upon a showing of compelling necessity, the plumbing board, in its discretion, may grant an exception to the requirement that material be submitted prior to the plumbing board's November meeting, and, pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the plumbing board, which otherwise meets the requirements of this Section.

20. A provider's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. - E.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2068 (September 2004), amended LR 37:2440 (August 2011), amended by the Workforce Commission, Plumbing Board, LR 43:979 (May 2017), amended by the Workforce Commission, Plumbing Board, LR 37:

**§1002. Gas Fitters and Master Gas Fitters**

A. CPE Requirement

1. All persons seeking to renew a gas fitter's license issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than 2 1/2 hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

2. All persons seeking to renew a master gas fitter's license or to convert an inactive master gas fitter's license to an active master gas fitter's license must attend and show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

3. …

4. A holder of an inactive master gas fitter's license who seeks to function as a gas fitter is required to attend and show proof of attendance at no less than 2 1/2 hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

5. All persons holding and seeking to renew gas fitter and journeyman plumber licenses issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than 4 1/2 hours as set out in this section and in 1001.B.

6. All persons holding and seeking to renew gas fitter and master plumber licenses issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than six hours as set out in this section and in 1001.B.

7. All persons holding and seeking to renew master gas fitter and journeyman plumber licenses issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than six hours as set out in this section and in 1001.B.

8. All persons holding and seeking to renew master gas fitter and master plumber licenses issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than six hours as set out in this section and in 1001.B.

B. - B.2. …

3. The course materials will provide the basis for a minimum of 2 1/2 classroom hours of study for gas fitters. One hour will be in the subjects of health protection, consumer protection or environmental protection, 1 1/2 hours shall include information concerning the Act, Louisiana State Plumbing Board rules with the one remaining hour covering current industry practices and codes, and subjects from a list~~s~~ approved and published by the Louisiana State Plumbing Board.

4. The course materials will provide the basis for a minimum of four classroom hours of study for master gas fitters. One hour will be in the subjects of health protection, consumer protection or environmental protection, ½ hour shall include information concerning the Act, Louisiana Louisiana State Plumbing Board rules, and one hour covering current industry practices and codes, and subjects from a list approved and published by the Louisiana State Plumbing Board, and 1 1/2 hours on business topics approved by the Louisiana State Plumbing Board.

5. The Louisiana State Plumbing Board will periodically publish lists of approved and required subjects.

6. The course materials must be presentations of relevant issues and changes within the subject areas as they apply to the gas fitting practice in the current market, public health or topics which increase or support the licensee's development of skill and competence.

7. The course materials may not advertise or promote the sale of goods, products or services.

8. The course materials must be printed and bound in perfect/standard, metal coil or ring binder form.

9. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of

the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

10. All course materials must have the following characteristics:

a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;

b. appropriate illustrations and graphics to show concepts not easily explained in words; and

c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

11. The publishers of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10-point bold type or larger containing the following language:

> "THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

12. The publishers of course materials will conduct instructor training in the use of course materials.

13. Any individual, business or association who wishes to offer to publish course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board.

14. The Louisiana State Plumbing Board may refuse to accept any application for approval as a publisher of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate coverage of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

15. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

16. A publisher's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

17. To be approved, 10 copies of course materials, including any handouts and audio/visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October 15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier) for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 10 copies each of all course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

18. Upon a showing of compelling necessity, the plumbing board, in its discretion, may grant an exception to the requirement that material be submitted prior to the plumbing board's November meeting, and, pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the plumbing board, which otherwise meets the requirements of this Section.

19. A publisher's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. - E.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I) and R.S. 37:1368(H).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:549 (March 2017), amended by the Workforce Commission, Plumbing Board, LR 43:

Ashley Jones Tullier
Executive Director

1712#041

# Rules

## RULE

### Department of Economic Development
### Office of Entertainment Industry Development

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

Editor's Note: The following Rule is being repromulgated due to a technical error. The original Rule can be viewed in the November 20, 2017 edition of the *Louisiana Register* on pages 2102-2104.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended the rules for the Motion Picture Production Tax Credit Program (R.S. 47:6007 et seq.) to effect a reservation and allocation system under a new tax credit issuance cap provided by Act 309 of the 2017 Regular Session of the Louisiana Legislature.

**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 Production Tax Credit Program**
**§1607. Certification Procedures**

A. - A.1.c.v. …

2. All applicants shall participate in a career based learning and training program approved by the office. To meet this requirement, at the time of application, applicants may choose a method of participation from the list below:

a. provide a minimum of 3 paid internship positions provided to students enrolled in an accredited high school, community college, university or qualified community based program, for a minimum of 75 hours per student and a total of 225 hours; or

b. a minimum of 8 hours of classroom workshop provided to students enrolled in an accredited high school, community college, university or qualified community based program; or

c. a minimum of 8 hours of studio employment and professional skills tour provided to students enrolled in high school, community college, university or qualified community based program; or

d. a minimum of 8 hours of continuing education for educators or faculty to observe the set operations, post production and other specialized departments;

e. financial contribution or donation to a specific local educational agency or higher education institution specializing in arts, media and entertainment career oriented program. Financial contributions calculated at 0.25 percent of the estimated tax credit reservation; or

f. other method of participation approved by the office.

B. - B.3. ...

C. Initial Certification

1. Application Review Process, Provisional Allocation and Reservation of Tax Credits

a. Project-Based Production Tax Credit—For Applications Submitted prior to July 1, 2017

i. After review and upon a determination of qualification, the office and the secretary shall issue an initial certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

b. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2017

i. Beginning July 1, 2017 and thereafter, the office will accept and review applications on a monthly basis. All applications received by the 15th of the month will be treated as received on the last business day of the month ("monthly initial certification pool") and processed accordingly.

ii. After review and upon determination of qualification, the office and the secretary shall issue an initial certification letter, or a written denial. The initial certification letter will provisionally allocate tax credits based upon expected the cost report submission date and availability of tax credits in any given year.

iii. Tax credits provisionally allocated in the initial certification letter shall be reserved until thirty days following the identified start date of principal photography.

iv. The production company shall provide written evidence that principal photography has begun by the identified date by submitting documents such as call sheets, site visit reports from local film commission staff, or as otherwise approved by the office. Upon receipt, the office will issue an email confirmation, acknowledging the continued tax credit reservation and effectivity of the initial certification letter.

v. If the production company is unable to begin principal photography by the identified date, it shall provide written notice to the office and provide written reasons for the delay and the anticipated new start date of principal photography. The office may, in its sole discretion, grant a one-time extension to such production company. Unless otherwise approved by the secretary for good cause shown, the extension shall not exceed 30 days.

vi. If the production company fails to provide appropriate written evidence that principal photography has begun by identified date or other approved date, the office will send production company a notice of disqualification and;

(a). the amount of credits reserved shall be added back into the available amount for that fiscal year, or rolled forward into the then current year, as applicable;

(b). the initial certification letter issued shall be deemed void, and the applicant shall be disqualified from earning any tax credits on the applicable state certified production;

(c). the applicant shall forfeit all application fees;

(d). any unused CPA advance deposit fees shall be refunded within 30 days;

vii. a production company so disqualified may re-submit a new application for the same project, which will be evaluated by the office as a new state certified production, with a new application date and subject to all applicable fee and filing requirements.

2. …

3. Cap Management—Phase 1- Initial Certification—Tentative Reservation

a. The reservation of tax credits shall be administered on a first come, first serve basis, until any of the caps have been met:

i. QEC;

ii. LA screenplay;

iii. independent film;

iv. general; or

iv. total cap.

b. Qualifying LA screenplay or independent film projects shall be allocated credits first from the available LA screenplay or independent film caps. On the day that the LA screenplay or independent film caps are met, credits shall be reserved from any remaining general cap.

c. If the LA screenplay and independent film caps have not been met by April 30 of any year, any residual amount of unreserved credits may be available for general allocation by the office, in addition to any residual general cap.

d. If the QEC cap is not met in any fiscal year, any residual unreserved credits shall carry forward for use by QEC's in subsequent years.

e. On the day that the total or general cap is reached, the credits remaining for allocation shall be reserved on a prorated basis amongst the monthly initial certification submission pool.

f. If the total amount of credits applied for in any particular year exceeds the total or general cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

4. Duration of Effect—for Applications Submitted prior to July 1, 2017.

a. - b. …

5. Duration of Effect—for Applications Submitted on or after July 1, 2017.

a. Once an initial certification letter is issued, the applicant or official representative must countersign and return an original to the office, within 30 business days, acknowledging initial certification status and the reporting requirement for start date of principal photography.

b. The initial certification letter shall be effective for qualifying expenditures made within a period of twelve months prior to the date of application and twenty-four months after the date of initial certification letter, except that:

i. state certified productions for scripted episodic content ("SEC's"), with estimated expenditures of at least $10,000,000 in state expenditures per calendar year, shall be issued an initial certification letter effective for qualifying expenditures made until 60 months after the date of initial certification, under terms and conditions approved by the office and the secretary, as set forth in the initial certification letter.

ii. when determining the amount and appropriate allocation and reservation of credits for SEC's, the office shall review all pertinent information, including but not limited to; whether the project is a pilot, TV series from a pilot formerly shot in Louisiana, a recurring TV series or a relocating TV series.

iii. unless otherwise approved by the office and the secretary, SEC tax credits will be allocated from the general cap, and initially reserved for two seasons. SEC applicants shall periodically provide updates to the office, and the initial certification letter may be subsequently revised to allow for additional allocations and reservations of credits for seasons three through five, if applicable.

D. Final Certification; Audit Requirements

1. - 2.b. …

3. Final Allocation and Issuance of Tax Credits

a. Project-Based Production Credit—for Applications Submitted prior to July 1, 2017

i. After review and upon a determination of qualification, the office and the secretary shall issue a final certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

b. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2017

i. Beginning July 1, 2017 and thereafter, the office will accept and review requests for final certification on a monthly basis. Applicants shall have completed all required steps for certification of credits, and requests shall be evidenced by submission of a signed attestation form to the office. All requests received by the 15th of the month will be treated as received on the last business day of the month, ("monthly final certification submission pool") and processed accordingly.

ii. After review and determination of qualification, the office and the secretary shall issue a final certification letter, in accordance with the provisional allocations and amounts set forth in the initial certification letter, or a written denial.

iii. In the event that less than the reserved amount of tax credits has been verified, any unused credits will be released and may be available for issuance by the office.

iv. In the event that more than the reserved amount of tax credits has been verified, the office shall preliminarily issue tax credits in an amount not to exceed the total indicated in the initial certification letter, but may at its discretion, subsequently issue a supplemental tax credit for any excess expenditures, subject to availability of credits in any given fiscal year.

4. Cap Management—Phase 2- Final Certification—Tax Credit Issuance

a. The issuance of tax credits shall be administered on a first come, first serve basis, until any of the caps have been met; QEC, LA screenplay, independent film, general or total cap.

b. Qualifying LA screenplay or independent film projects shall be issued credits first from the available LA screenplay or independent film caps. On the day that the LA screenplay or independent film caps are met, credits shall be issued from any remaining general cap.

c. If the LA screenplay and independent film caps have not been met by April 30 of any year, any residual amount of credits may be available for issuance by the office, in addition to any residual general cap.

d. If the total cap has not been met by May 30 of any year, the office shall review any projects with excess expenditures for which credits have neither been certified nor denied, and may issue supplemental tax credits from any remaining general cap. Such projects shall all be treated as received on June 15th and processed accordingly.

e. If the QEC cap is not met in any fiscal year, any residual credits shall carry forward for use by QEC's in subsequent years.

f. On the day that the total or general cap is reached, the credits remaining for allocation shall be issued on a prorate basis amongst the monthly final certification submission pool.

g. If the total amount of credits applied for in any particular year exceeds the total or general cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

E. Appeal Process. In the event that an application for initial or final certification is denied:

1. - 2.e.…

3. initial certification letters that were issued to an applicant, but subsequently deemed void by the office, following a notice of disqualification for failure to begin principal photography by an agreed upon identified date or other approved date, shall not be subject to appeal.

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 42:39 (January 2016), LR 43:2102 (November 2017), repromulgated LR 43:2473 (December 2017).

Anne G. Villa
Undersecretary

1712#038

## RULE

## Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:XI.6115)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practice*: §6115, Performance Standards. Performance standards for LEAP English language arts, mathematics, science, and social studies tests are finalized in scaled-score form. The amendments to *Bulletin 118—Statewide Assessment Standards and Practices*, update the social studies scaled score range from 100-500 to 650-850.

**Title 28**
**EDUCATION**
**Part XI. Accountability/Testing**
**Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices**
**Chapter 61. Louisiana Educational Assessment Program**
**Subchapter B. Achievement Levels and Performance Standards**
**§6115. Performance Standards**
**[Formerly LAC 28:CXI.1115]**

A. Performance standards for LEAP English language arts, mathematics, science, and social studies tests are finalized in scaled-score form. The scaled scores range between 100 and 500 for science, and between 650 and 850 for English language arts, mathematics, and social studies.

B. LEAP Achievement Levels and Scaled Score Ranges—Grade 4

1. English Language Arts, Mathematics, and Social Studies

| Achievement Level | English Language Arts Scaled Score Range | Mathematics Scaled Score Range | Science Scaled Score Range |
|---|---|---|---|
| Advanced | 790-850 | 796-850 | 405-500 |
| Mastery | 750-789 | 750-795 | 360-404 |
| Basic | 725-749 | 725-749 | 306-359 |
| Approaching Basic | 700-724 | 700-724 | 263-305 |
| Unsatisfactory | 650-699 | 650-699 | 100-262 |

2. Social Studies

| Social Studies | | | | | | |
|---|---|---|---|---|---|---|
| Achievement Level | Grade 3 | Grade 4 | Grade 5 | Grade 6 | Grade 7 | Grade 8 |
| Advanced | 777-850 | 783-850 | 782-850 | 773-850 | 777-850 | 780-850 |
| Mastery | 750-776 | 750-782 | 750-781 | 750-772 | 750-776 | 750-779 |
| Basic | 725-749 | 725-749 | 725-749 | 725-749 | 725-749 | 725-749 |
| Approaching Basic | 695-724 | 696-724 | 700-724 | 698-724 | 704-724 | 700-724 |
| Unsatisfactory | 650-694 | 650-695 | 650-699 | 650-697 | 650-703 | 650-699 |

C. LEAP Achievement Levels and Scaled Score Ranges—Grade 8

1. English Language Arts, Mathematics, and Social Studies

| Achievement Level | English Language Arts Scaled Score Range | Mathematics Scaled Score Range | Science Scaled Score Range |
|---|---|---|---|
| Advanced | 794-850 | 801-850 | 400-500 |
| Mastery | 750-793 | 750-800 | 345-399 |
| Basic | 725-749 | 725-749 | 305-344 |
| Approaching Basic | 700-724 | 700-724 | 267-304 |
| Unsatisfactory | 650-699 | 650-699 | 100-266 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 32:235 (February 2006), LR 42:225 (February 2016), LR 43:2475 (December 2017).

Shan N. Davis
Executive Director

1712#004

## RULE

## Board of Elementary and Secondary Education

Bulletin 126—Charter Schools (LAC 28:CXXXIX.103, 512, 513, 515, 1303, 1503, 2303, 2709, 2713, 2801, and 2803)

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*: §103, Definitions; §512, Application Process for Locally Authorized Charter Schools; §513, Stages of Application Cycle for BESE-Authorized Charter Schools; §515, Charter School Application Components; §1303, Extension Review; §1503, Charter Renewal Process and Timeline; §2303, Local Education Agency (LEA) Status and Federal Funding; §2709, Enrollment of Students, Lottery, and Waitlist; §2713, Required Student Enrollment Percentages; §2801, Transportation Requirements; and §2802, Corporal Punishment. The amendments align policy with laws recently enacted by the Louisiana Legislature.

**Title 28**
**EDUCATION**
**Part CXXXIX. Bulletin 126—Charter Schools**
**Chapter 1. General Provisions**
**§103. Definitions**

A. The words defined in this Section shall have the meanings set forth below whenever they appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or
2. a different definition is prescribed for a particular provision.

*Appropriate Technical Infrastructure*—any servers, programs, internet access, and/or management systems that allow user interaction, provide sufficient bandwidth to host courses or online services, and sustain peak periods of usage without a reduction in performance.

*BESE* and/or *Board*—the state Board of Elementary and Secondary Education as created by the Louisiana Constitution and the *Louisiana Revised Statutes*.

*Charter*—the agreement and authorization to operate a charter school, which includes the charter contracts and exhibits.

*Charter Operator*—the nonprofit corporation or school board authorized to operate a charter school.

*Charter School*—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana charter school law to provide a learning environment that will improve pupil achievement.

*Charter School Application*—the proposal submitted to BESE, which includes but is not limited to, responses to questions concerning:

i. a charter school's education program;
ii. governance, leadership, and management;
iii. financial plan; and
iv. facilities.

*Charter School Law*—Louisiana laws, R.S. 17:3971 et seq., governing the operation of a charter school.

*Chartering Authority*—a local school board or the state Board of Elementary and Secondary Education.

*Core Subject*—shall include those subjects defined as core subjects in Bulletin 741.

*Department of Education* or *LDE* or *Department*—the Louisiana Department of Education. The Department of Education includes the recovery school district, or RSD, where references are made to type 5 charter schools.

*Domicile*—the place where the student predominantly sleeps, takes meals, and maintains personal belongings.

*Hearing Officer*—the individual assigned by BESE to perform adjudicatory functions at charter school revocation hearings.

*Instructional and Communication Hardware*—any equipment used to ensure students can access and engage with the educational program (e.g., headphones, wireless air cards, learning management systems, web-based communication tools).

*Instructional Coach*—a parent or guardian, extended adult family member, or other adult designated by the parent or guardian who works in person with each virtual charter school student under the guidance of the Louisiana-licensed professional teacher.

*Legal Custody*—the legal status created by a court order which establishes in a custodian the right to have physical custody of the child. Custody for educational purposes only or provisional custody by mandate will not be accepted.

*Local School Board*—any city, parish, or other local education agency.

*Management Organization*—a for-profit company that manages academic, fiscal, and operational services on behalf of boards of directors of BESE-authorized charter schools through contractual agreements.

*Public Service Organization*—any community-based group of 50 or more persons incorporated under the laws of this state that meets all of the following requirements:

i. has a charitable, eleemosynary, or philanthropic purpose; and is qualified as a tax-exempt organization under section 501(c) of the United States *Internal Revenue Code* and is organized for a public purpose.

*State Superintendent*—the superintendent of education, who is the chief administrative officer of the Louisiana Department of Education, and who shall administer, coordinate, and supervise the activities of the department in accordance with law, regulation, and policy.

*Technical Access*—computer and internet availability sufficient to ensure access for all students.

*Virtual School*—an educational program operated for a minimum of one academic year and covering specified educational learning objectives for the purpose of obtaining a Louisiana-certified diploma, the delivery of such a program being through an electronic medium such that the students are not required to be at a specific location in order receive instruction from a teacher, but instead access instruction remotely through computers and other technology, which may separate the student and teacher by time and space. This does not preclude the ability of said program to host face-to-face meetings, including field trips, extracurricular activities, conferences between the student, parents, and teachers, or any such related events.

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

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

**Chapter 5. Charter School Application and Approval Process**

**§512. Application Process for Locally-Authorized Charter Schools**

A. Application Cycle

1. Local school boards shall accept charter applications from applicants according to the local district timeline established by the department and approved by BESE. Local school boards may request supplementary materials once the initial application has been submitted. Final decisions regarding the approval of charter applications must be made by local school boards according to the local district charter application timeline. Notifications of charter proposal denied shall include written explanation of the reasons for such denial.

2. …

3. The local board shall send to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which the local board will take action on the charter proposal.

4. If a proposal is not approved by the local school board and then also not approved by BESE within the same approval cycle, then the proposal shall be submitted to the local school board for its consideration during the next approval cycle prior to being submitted to the state board.

B. - D.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:869 (March 2011), amended LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:81 (January 2013), LR 40:761 (April 2014), LR 43:2477 (December 2017).

**§513. Stages of Application Cycle for BESE-Authorized Charter Schools**

A. - D. …

E. BESE shall send to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which the board will take action on the charter proposal.

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 in LR 34:1361 (July 2008), amended LR 37:869 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:1431 (June 2013), LR 43:2477 (December 2017).

**§515. Charter School Application Components**

A. - F. …

G. Type 1 and type 2 charter school applications shall describe how the charter school will serve the percentage of required students defined in the charter school law and in §2713 of this bulletin.

H. - H.11. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:38 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 38:3118 (December 2012), LR 39:1432 (June 2013), LR 43:2477 (December 2017).

**Chapter 13. Charter Term**

**§1303. Extension Review**

A. - B.1.a.i.(c).(iii). …

ii. For the 2017 extension process, in addition to the 2017 school performance score and letter grade, the department shall calculate a school performance score and letter grade for each charter school being considered for extension based on the formula that will be utilized for the 2018 school performance score and letter grade formula. The school performance score and letter grade that result in the better outcome for the charter school shall be considered by the department and BESE for extension purposes.

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), LR 43:2477 (December 2017).

**Chapter 15. Charter Renewal**

**§1503. Charter Renewal Process and Timeline**

A. - B.5.b. …

6. For the 2017 renewal process, in addition to the 2017 school performance score and letter grade, the department shall calculate a school performance score and letter grade for each charter school being considered for renewal based on the formula that will be utilized for the 2018 school performance score and letter grade formula. The school performance score and letter grade that result in the better outcome for the charter school shall be considered by the department and BESE for renewal purposes.

7. 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. - G.3. …

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), LR 43:2477 (December 2017).

## Chapter 23. Charter School Funding

### §2303. Local Education Agency (LEA) Status and Federal Funding

A. - B.2.d. …

e. The local superintendent and the department shall work together to coordinate each entity's reporting requirements for a charter school considered its own LEA in order to streamline and minimize duplication of reporting by the charter school. Upon written request by the local superintendent, the department shall, to the extent permitted by state and federal law, share data reported to the department by a charter school authorized by the local school board and acting as its own LEA. The written request shall include the specific data requested, whether the data will be needed on an ongoing basis, an explanation of the necessity and intended use of the data requested, and a plan for protecting the privacy and security of such data in accordance with applicable laws and regulations.

B.3. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.7.1, R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3251 (December 2013), LR 40:1324 (July 2014), LR 43:309 (February 2017), LR 43:636 (April 2017), LR 43:2478 (December 2017).

## Chapter 27. Charter School Recruitment and Enrollment

### §2709. Enrollment of Students, Lottery, and Waitlist

A. - E. …

F. A charter school lottery and continued admission of applicants, following a determination that a lottery is not required at the conclusion of the student application period, shall be performed in such a fashion that assures compliance with student population requirements detailed in §2713 of this bulletin. Nothing herein shall preclude the implementation of a weighted lottery to ensure such student population requirements are met.

G. - K. …

L. Any charter school may directly enroll the child of a faculty member if the child meets all admission requirements of the school. Any charter school with a foreign language immersion mission may directly enroll the child of a foreign consular officer who resides in Louisiana if the child meets all mission-related and academic admission requirements for the school. Such children shall not be counted for the purposes of determining whether such enrollment exceeds the capacity of a program, class, grade level, or school. A charter authorizer that uses a common application and enrollment process for its charter schools shall adopt uniform policies and/or procedures to implement this Subsection, but such policies and procedures shall not limit the ability of the charter school to exercise the authority to enroll such children.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015), LR 43:310 (February 2017), LR 43:2478 (December 2017).

### §2713. Required Student Enrollment Percentages

A. Charter schools shall maintain required student enrollment percentages as provided in this Section, based on the demographic information collected in the October 1 pupil membership.

B. The following definitions shall apply in this Section.

*Economically Disadvantaged*—any one of the following characteristics of a student:

a. is eligible for the Louisiana food assistance program for low-income families;

b. is eligible for the Louisiana disaster food assistance program;

c. is eligible for the Louisiana program for assistance to needy families with children to assist parents to becoming self-sufficient;

d. is eligible for the Louisiana healthcare program for families and individuals with limited financial resources;

e. is eligible for reduced price meals based on the latest available data;

f. is an English language learner;

g. is identified as homeless or migrant pursuant to the McKinney-Vento Homeless Children and Youth Assistance Act and the Migrant Education Program within the Elementary and Secondary Education Act;

h. is incarcerated with the office of juvenile justice or in an adult facility; and/or

i. has been placed into the custody of the state.

*Students with Exceptionalities*—students identified as having one or more exceptionalities, as defined in R.S. 17:1942, not including gifted and talented.

C. Unless otherwise explicitly stated in the charter school's contract, or otherwise provided by charter law, each charter school created as the result of a conversion during or prior to the 2011-2012 school year shall maintain the following student enrollment percentages:

1. the charter school percentage of economically disadvantaged students shall be greater than or equal to the percentage of economically disadvantaged students enrolled at the school in the school year prior to the establishment of the charter school; and

2. the charter school percentage of students with exceptionalities shall be greater than or equal to the percentage of students with exceptionalities enrolled at the school in the school year prior to the establishment of the charter school.

D. Except as otherwise provided by charter law, each charter school created as a new school and each charter school created as a result of a conversion after the 2011-2012 school year shall maintain the following student enrollment percentages:

1. the charter school percentage of economically disadvantaged students shall be greater than or equal to 85 percent of the percentage of economically disadvantaged students from the local public school districts from which the charter school enrolls; and

2. the charter school percentage of students with exceptionalities shall be greater than or equal to 85 percent of the percentage of students with exceptionalities from the local public school districts from which the charter school enrolls.

E. For the purpose of Subsection D of this Section, the department shall determine the percentages of economically

disadvantaged students and students with exceptionalities from local public school districts as follows.

1. For charter schools in operation prior to July 1, 2016, the student enrollment percentages shall be based on the October 1, 2015 pupil membership count and shall remain fixed until the charter school's contract is renewed, unless otherwise provided for in existing charter contracts.

2. For charter schools beginning an initial or renewal charter contract term on or after July 1, 2016, the student enrollment percentages shall be based on the pupil membership counts from the school year immediately preceding the beginning of the charter contract term and shall remain fixed during the charter contract term.

F. The department shall perform all calculations necessary to implement this Section.

G. Annually, the department shall make a report to BESE on the student enrollment percentages detailed in this Section for all public schools and local education agencies.

H. …

1. conducting an inquiry to determine all actions taken by the charter school to attempt to meet the requirements and the reasons for such failure; and

2. providing a written notice to the charter school that provides a process or actions to address the deficiencies and adequately meet the needs of students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 40:1325 (July 2014), LR 42:550 (April 2016), LR 43:310 (February 2017), LR 43:2478 (December 2017).

**Chapter 28. Operations**

**§2801. Transportation Requirements**

A. - D. …

E. Each type 5 charter school located in Orleans Parish shall provide free transportation services for all students enrolled in the charter school who reside within Orleans Parish and more than 1 mile from the charter school's location, which shall include, at a minimum:

1. - 3. ...

F. Each school bus used to transport students to charter schools in Orleans Parish shall contain lettering identifying the name of the school or schools for which it transports students. The lettering shall be black and in block form. The lettering shall be placed on both sides of the bus as high as possible to provide maximum visibility.

G. Each charter school operator shall adopt policies and procedures or shall make provision in its bus transportation service agreement to do all of the following:

1. prohibit a bus driver from loading or unloading students at school while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder, in a school parking lot, or at other appropriate off-road location at the school as determined by the school governing authority. The requirements of this Paragraph shall not apply if the shoulder of a municipal road is the only available alternative and the municipality has not made the shoulder available by designating that area for loading and unloading students during designated school zone hours;

2. prohibit a bus driver from loading or unloading students at or near their homes while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder unless the governing authority determines that loading or unloading on a shoulder is less safe for the student. However, if there is no shoulder or if the shoulder is determined to be less safe, a bus driver may load and unload a student while the bus is in a lane of traffic, but only if the bus is in the lane farthest to the right side of the road so that there is not a lane of traffic between the bus and the right-side curb or other edge of the road;

3. prohibit a bus driver from loading or unloading a student in a location on a divided highway such that a student, in order to walk between the bus and his home or school, would be required to cross a roadway of the highway on which traffic is not controlled by the visual signals on the school bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:158, R.S. 17:3981, and 17:3996(B)(37).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1266 (July 2015), amended LR 42:551 (April 2016), LR 43:2479 (December 2017).

**§2803. Corporal Punishment**

A. A charter school shall have discretion with respect to the use of corporal punishment; however, no form of corporal punishment shall be administered to a student with an exceptionality, excluding gifted and talented, as defined in R.S. 17:1942, or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

B. *Corporal Punishment*—using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.

C. Corporal punishment does not include:

1. the use of reasonable and necessary physical restraint of a student to protect the student or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student; or

2. the use of seclusion and restraint as provided in R.S. 17:416.21.

D. Should a charter school permit corporal punishment, the school shall adopt such rules and regulations necessary to implement and control such punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:416.1, R.S. R.S. 17:3981, and 17:3996(B)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2479 (December 2017).

Shan N. Davis
Executive Director

1712#008

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel
(LAC 28:CXLVII.301 and 303)

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*: §301, Overview of Personnel Evaluation; and §303, Measures of Growth in Student Learning—Value-Added Model. The amendments align policy with recently enacted state legislation.

**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, data derived from the value-added assessment model shall be a factor in measuring growth in student learning for grade levels and subjects for which value-added data are available. If value-added data are available, growth in student learning (50 percent of the total score) shall be comprised of 35 percent value-added data and 15 percent student learning targets. If value-added data are not available, growth in student learning shall be comprised of 50 percent student learning targets. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth and goal setting for principals is subject to §305.D of this bulletin.

A.2. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1266 (July 2015), LR 43:2480 (December 2017).

**§303. Measures of Growth in Student Learning—Value-Added Model**

A. - D.5. …

6. economically disadvantaged status;

D.7. - F. …

G. During the transition to English I, English II, algebra I, and geometry assessments having five levels of performance, teacher value-added data will not be available in 2017-2018. 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.

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), LR 43:2480 (December 2017).

Shan N. Davis
Executive Director

1712#007

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 134—Tuition Donation Program
(LAC 28:CLV.101, 103, 301, 311, 313, 501, 503, 505, 703, 705, 707, 901, 1101, 1301, and 1303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 134—Tuition Donation Program*: §101, Purpose, Scope, and Effect; §103, Definitions; §301, Establishment of a School Tuition Organization; §311, Scholarship and Tuition Payments; §313, Refund of Donations; §501, Donations; Qualifications; §503, Donations; Time; §505, Credits; §703, School Tuition Organization Advertising; §705, Annual Report; §707, Budgeting; §901, General Audits and Financial Reviews; §1101, Background Checks; §1301, Required Participation in the State Testing Program; and §1303, Annual Report on Program Implementation. The amendments align policy with recently enacted state legislation.

**Title 28**
**EDUCATION**
**Part CLV. Bulletin 134—Tuition Donation Program**
**Chapter 1. General Provisions**
**§101. Purpose, Scope, and Effect**

A. The purpose of this policy Rule is to set forth the rules and regulations necessary to implement the provisions of R.S. 47:6301, which allows credits for donations a taxpayer makes to a school tuition organization which provides scholarships to qualified students that attend a qualified school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1024 (April 2013), amended LR 43:2480 (December 2017).

**§103. Definitions**

A. The words defined in this Section shall have the meanings set forth below whenever the words appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or

2. a different definition is prescribed for a particular provision.

*Administrative Costs*—all costs and expenses associated with the operation of a school tuition organization, including promotional costs and the costs associated with administering state testing, other than scholarship awards. Administrative costs shall not exceed 5 percent of any donation.

*Donor*—a taxpayer who is required to file a Louisiana income tax return, and who makes a donation to a school tuition organization.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1024 (April 2013), amended LR 41:41 (January 2015), LR 42:553 (April 2016), LR 43:2480 (December 2017).

## Chapter 3. School Tuition Organizations

### §301. Establishment of a School Tuition Organization

A. - D.3. …

E. The department shall bar a school tuition organization from participating in the tuition donation program if the school tuition organization fails to perform criminal background checks on all of its employees and board members according to the provisions of R.S. 15:587.1 or employs or allows a person to be a board member who has been convicted of or entered a plea of *nolo contendere* to a crime listed in R.S. 15:587.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1024 (April 2013), amended LR 43:2481 (December 2017).

### §311. Scholarship and Tuition Payments

A. - C. …

D. The department shall verify that each student receiving a scholarship from a school tuition organization was not enrolled in a public school in Louisiana on October 1 or February 1 of the school year for which the student received the scholarship, pursuant to the definition of student membership established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1025 (April 2013), amended LR 40:499 (March 2014), LR 43:2481 (December 2017).

### §313. Refund of Donations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), repealed LR 43:2481 (December 2017).

## Chapter 5. Donations to School Tuition Organizations and Credits

### §501. Donations; Qualifications

A. There shall be a credit allowed for donations made by a taxpayer during a taxable year to a school tuition organization which provides scholarships to qualified students to attend a qualified school.

B. To qualify for a credit pursuant to R.S. 47:6301, the donor must be a taxpayer who is required to file a Louisiana income tax return.

C. …

D. The Department of Revenue shall provide a standardized format for the receipt to be issued by the LDE to a school tuition organization. The Department of Revenue shall require a taxpayer to provide a copy of the receipt when claiming the credit authorized by this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), amended LR 40:499 (March 2014), LR 43:2481 (December 2017).

### §503. Donations; Time

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), repealed LR 43:2481 (December 2017).

### §505. Credits

A. In order for a donation to qualify for the credit, the donation shall be used by the school tuition organization to provide scholarships for tuition and fees for students to attend a qualified school in accordance with the provisions of this Rule and R.S. 47:6301.

B. The amount of the credit to the donor shall be equal to the actual amount of the taxpayer~~'s~~ donation used by a school tuition organization to fund a scholarship to a qualified student, which shall not include administrative costs.

C. The credit shall be earned when the donation is made.

D. The department shall transmit an electronic file to the Department of Revenue verifying that the LDE has issued taxpayer receipts to the taxpayer or to the school tuition organization, on behalf of the taxpayer, when the taxpayer has authorized the school tuition organization to collect the receipt on the taxpayer's behalf. The electronic file should include the following information for each receipt:

1. the date the LDE issued the receipt;
2. the name and social security number or Louisiana taxpayer identification number of each taxpayer; and
3. the amount of each taxpayer's donation that funded student scholarships for the previous school year.

E. The taxpayer shall complete a credit form, provided by the Department of Revenue, and submit~~s~~ both that form and the LDE-issued receipt to the Department of Revenue.

F. The taxpayer may use the credit in addition to any federal tax credit or deduction earned for the same donation. However, a taxpayer shall not receive any other state tax credit, exemption, exclusion, deduction or any other tax benefit for which the taxpayer has received a tax credit under the tuition donation program.

G. In the event that the tax credit earned through the tuition donation program exceeds the total tax liability of the taxpayer in the taxable year, the amount of the credit not used as an offset against such tax liability in the taxable year may be carried forward as a credit against subsequent income tax liabilities for a period not to exceed three taxable years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), amended LR 40:499 (March 2014), LR 43:2481 (December 2017).

## Chapter 7. School Tuition Organization Fiscal and Advertising Responsibilities

### §703. School Tuition Organization Advertising

A. - E. …

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), amended LR 40:499 (March 2014), LR 43:2481 (December 2017).

### §705. Annual Report

A. - A.10. …

B. The department shall bar a school tuition organization that fails to report all information required in this Section by the first day of January, unless granted an extension of no more than 30 days by department for good cause, from participation in the tuition donation program for the current school year and the upcoming school year.

C. Each school tuition organization and the LDE shall redact all names of taxpayers and social security numbers or tax identification numbers before publicly releasing any annual report.

D. The department shall provide the Department of Revenue with copies of all such reports by February 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1027 (April 2013), amended LR 40:499 (March 2014), LR 43:2481 (December 2017).

**§707. Budgeting**

A. …

B. Each school tuition organization shall pay out or reserve for scholarships at least 75 percent of all funds from donations.

1. Only those funds that are designated for a specific student who is awarded a scholarship for the next school year or for multiple school years shall be considered to be "reserved."

2. On July 1 of each year, the school tuition organization shall make an accounting of all funds received as donations during the previous calendar year and retained from the year before the previous calendar year.

3. Any donated funds retained by the school tuition organization as of July 1 that exceed 25 percent of all funds available from donations from all prior calendar years shall be remitted to the department for deposit into the state general fund.

C. Each school tuition organization shall provide for the administration of the state tests associated with the school and district accountability system to those participating students to whom it has awarded scholarships in grades that require testing under the state's accountability and testing laws for public schools. Such costs shall not be included as part of any scholarship award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1027 (April 2013), amended LR 43:2482 (December 2017).

**Chapter 9. Review of School Tuition Organizations**

**§901. General Audits and Financial Reviews**

A. The department shall annually conduct an audit of a school tuition organization. The department shall bar a school tuition organization from participating in the program authorized under this Section if the school tuition organization intentionally or substantially fails to comply with the requirements of this Bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1027 (April 2013), amended LR 41:41 (January 2015), LR 43:2482 (December 2017).

**Chapter 11. Qualified Schools**

**§1101. Background Checks**

A. Each qualified school must conduct criminal background checks on its employees in compliance with R.S. 17:15 and exclude from employment any person not permitted by state law to work in a nonpublic school. The LDE shall bar an otherwise qualified school from participating in the program authorized under this Rule if the otherwise qualified school fails to comply with the requirements of R.S. 17:15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1027 (April 2013), amended LR 43:2482 (December 2017).

**Chapter 13. Testing**

**§1301. Required Participation in the State Testing Program**

A. - D.2.…

E. The LEA shall not test any students enrolled in participating nonpublic schools unless there is a written agreement between the LEA and the participating nonpublic school to this effect. No LEA shall ever be required to test students attending the participating nonpublic schools under the Tuition Donation Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1028 (April 2013), amended LR 43:2482 (December 2017).

**§1303. Annual Report on Program Implementation**

A. - B. …

C. The department shall publically report state test scores for each student receiving a scholarship the entirety of the students participating in the tuition donation program in accordance with the requirements of the federal FERPA statute (20 U.S.C. 1232g) and regulations (34 CFR 99.1 et seq.). However, the LDE shall not include the name or any other identifying information for individual students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1029 (April 2013), amended LR 41:41 (January 2015), LR 43:2482 (December 2017).

Shan N. Davis
Executive Director

1712#006

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook
for School Administrators
(LAC 28:CXV.901, 1307, 1315, 2318, 2319, and 2345)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §901, Scheduling; §1307, Reasons for Expulsion; §1315, Corporal Punishment; §2318, The TOPS University Diploma; §2319, The Career Diploma; and §2345, Foreign Languages. The revisions align policy with recently enacted state legislation, and updates policy relative to high school end of course tests, class rank and weighted grade point average parental requests, and foreign languages.

## Title 28
## EDUCATION
## Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

### Chapter 9. Scheduling

### §901. Scheduling

A. - D.4. …

E. In order to support students applying for financial aid, beginning with the 2017-2018 school year, each high school shall, upon written request of the parent/legal custodian of a graduating senior, provide the student's parent/legal custodian with the student class rank, weighted grade point average, and unweighted grade point average.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175 and R.S. 17:183.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:2204 (August 2013), LR 40:2522 (December 2014), LR 42:557 (April 2016), LR 43:2483 (December 2017).

### Chapter 13. Discipline

### §1307. Reasons for Expulsions

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §1305, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

A.2. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008), LR 39:2211 (August 2013), LR 43:2483 (December 2017).

### §1315. Corporal Punishment

A. …

B. No form of corporal punishment shall be administered to a student with an exceptionality, excluding students identified as gifted and talented, as defined in R.S. 17:1942, or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

C. *Corporal Punishment*—using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.

D. Corporal punishment does not include:

1. the use of reasonable and necessary physical restraint of a student to protect the student or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student; nor

2. the use of seclusion and restraint as provided in R.S. 17:416.21.

E. Each LEA shall adopt a policy establishing procedures for the investigation of employees accused of impermissible corporal punishment.

F. Each LEA shall collect and report corporal punishment data according to procedures established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6, R.S. 17:223, and R.S. 17:416.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 39:2212 (August 2013), LR 43:2483 (December 2017).

### Chapter 23. Curriculum and Instruction

### Subchapter A. Standards and Curricula

### §2318. The TOPS University Diploma

A. - A.2. …

B. Assessment Requirements

1. For incoming freshmen prior to 2010-2011, students must pass the English language arts and mathematics components of the GEE or LEAP alternate assessment, level 2 (LAA 2) and either the science or social studies portions of GEE or LAA 2.

1.a. - 2.b. …

3. Students enrolled in a course for which there is an EOC or LEAP 2025 test must take the EOC or LEAP 2025 test.

a. The EOC or LEAP 2025 test score shall count a percentage of the student's final grade for the course. During the transition to new tests, the requirement to count a LEAP 2025 test score as a percentage of the student's final grade will be waived for high school state assessments as follows:

i. English I, English II, algebra I, and geometry scores from the fall 2017 administration;

ii. U.S. history scores from the fall and spring administrations in 2017-2018; and

iii. biology scores from the fall and spring administrations in 2018-2019.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

i. For students with disabilities identified under IDEA who meet the participation criteria found in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*, §405.B and R.S. 17:183.2, the EOC test score shall count for 5 percent of the students' final grade for the course.

c. - d. …

4. Repealed.

B.5. - D.3. …

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 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2483 (December 2017).

**§2319. The Career Diploma**

A. - A.2. …

B. Assessment Requirements

1. For incoming freshmen prior to 2010-2011, students must pass the English language arts and mathematics components of the GEE or LEAP alternate assessment, level 2 (LAA 2) and either the science or social studies portions of GEE or LAA 2.

1.a. - 2.b. …

3. Students enrolled in a course for which there is an EOC or LEAP 2025 test must take the EOC or LEAP 2025 test.

a. The EOC or LEAP 2025 test score shall count a percentage of the student's final grade for the course. During the transition to new tests, the requirement to count a LEAP 2025 test score as a percentage of the student's final grade will be waived for high school state assessments as follows:

i. English I, English II, algebra I, and geometry scores from the fall 2017 administration;

ii. U.S. history scores from the fall and spring administrations in 2017-2018; and

iii. biology scores from the fall and spring administrations in 2018-2019.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

i. For students with disabilities identified under IDEA who meet the participation criteria found in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*, §405.B and R.S. 17:183.2, the EOC test score shall count for 5 percent of the students' final grade for the course.

c. - d. …

4. Repealed.

B.5. - C.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, 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 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2484 (December 2017).

**Subchapter B. Academic Programs of Study**

**§2345. Foreign Languages**

A. The foreign language course offerings shall be as follows.

| Course Title(s) | Units |
|---|---|
| French I, II, III, IV, V | 1 each |
| German I, II, III, IV, V | 1 each |
| Italian I, II, III, IV, V | 1 each |
| Latin I, II, III, IV, V | 1 each |
| Russian I, II, III, IV, V | 1 each |
| Spanish I, II, III, IV, V | 1 each |
| American Sign Language I, II, III, IV | 1 each |
| Greek I, II, III, IV | 1 each |
| Chinese I, II, III, IV | 1 each |
| Japanese I, II, III, IV | 1 each |
| Hebrew I, II, III, IV | 1 each |
| Arabic I, II, III, IV | 1 each |
| Korean I, II, III, IV | 1 each |
| IB Language ab initio: Arabic | 1 |
| IB Language B: Arabic | 1 |
| AP Chinese Language and Culture | 1 |
| AP French Language and Culture | 1 |
| AP German Language and Culture | 1 |
| AP Italian Language and Culture | 1 |
| AP Japanese Language and Culture | 1 |
| AP Latin | 1 |
| AP Spanish Language and Culture | 1 |
| IB Language ab initio: French | 1 |
| IB Language B: French | 1 |
| IB Language ab initio: Spanish | 1 |
| IB Language B: Spanish | 1 |
| IB Language ab initio: German | 1 |
| IB Language B: German | 1 |
| IB Language ab initio: Chinese | 1 |
| IB Language B: Chinese | 1 |
| IB Language ab initio: Italian | 1 |
| IB Language B: Italian | 1 |
| IB Language ab initio: Japanese | 1 |
| IB Language B: Japanese | 1 |
| IB Classical Language | 1 |

B. - B.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013), LR 40:998 (May 2014), LR 40:2527 (December 2014), LR 43:2484 (December 2017).

Shan N. Davis
Executive Director

1712#012

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs
(LAC 28:XLV.Chapters 1-7 and 11)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs*: §101, Purpose; §103, National Accreditation Standards; §105, State Adoption of National Accreditation Standards; §107, The Partnership Agreements; §109, State Standards; §301, Process/Procedures; §303, Initial Approval; §305, Level II Approval; §307, Level III Approval; §309, Level IV Approval; §401, Ongoing Approval of Teacher Preparation Programs; §403, Teacher Preparation Quality Rating System Participation and Performance Profile Implementation Timeline; §405, Louisiana Teacher

Preparation Quality Rating System; §407, Quality Rating Calculation; §409, Performance Profiles; §411, Informational Profiles; §413, Reporting for the Accountability System; §415, Data Verification, Appeals, and Waivers; §501, Process/Procedures; §503, Preliminary Review; §505, Evaluation Process; §507, Board Approval; §509, Board Denial; §741, Introduction; §743, Minimum Requirements for Traditional Teacher Preparation Programs; and §745, Minimum Requirements for Alternate Teacher Preparation Programs. These amendments provide relative to a teacher preparation quality rating system.

**Title 28**
**EDUCATION**
**Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs**

**Chapter 1. Introduction**

**§101. Purpose**

A. Bulletin 996 is intended to guide educator preparation providers in the development and review of new and existing teacher and/or educational leader preparation programs, to guide the review of teacher and/or educational leader preparation programs in Louisiana, and to inform all interested persons of the Louisiana standards for teacher and educational leader preparation programs and the procedures for program evaluation.

B. This bulletin establishes policies relative to the initial and ongoing approval of teacher and educational leader preparation programs relative to the following:

1. the initial approval of a teacher and educational leader preparation program from which graduates or completers may be certified per Part CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, Chapter 2, Subchapter A;

2. the alignment of approved programs to updated certification and preparation requirements, including updates to state birth to five learning and development standards and state academic content standards for elementary and secondary education, as appropriate and deemed necessary by BESE;

3. the ongoing approval of teacher preparation programs, including the establishment and implementation of a uniform quality rating system to serve as the basis for such ongoing approval decisions;

4. the fulfillment of all other obligations pursuant to federal and state law with respect to the initial and ongoing approval of teacher and educational leader preparation programs from which graduates or completers may be certified; and

5. the fulfillment of these duties and obligations in alignment with the Board of Regent's (BOR) constitutional authority to regulate public institutions of higher education.

C. Beginning December 2017, a uniform process for initial and ongoing program approval that applies equally to university and non-university providers shall be used. A uniform quality rating system shall serve as the basis for renewal decisions.

D. BESE shall provide for regular checkpoints to refine the quality rating system. Annually beginning winter 2017-2018, and every winter thereafter for a period of five years, the LDE shall provide a report to BESE relative to the results of pilots, study findings, and progress of preparation providers toward updated program design expectations. At such checkpoints the LDE shall submit to BESE a brief written report and recommendations, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), LR 43:2485 (December 2017).

**§103. National Accreditation Standards**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:2485 (December 2017).

**§105. State Adoption of National Accreditation Standards**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2452 (November 2004), LR 35:2327 (November 2009), LR 40:1001 (May 2014), repealed LR 43:2485 (December 2017).

**§107. The Partnership Agreements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2452 (November 2004), LR 35:2327 (November 2009), LR 40:1001 (May 2014), repealed LR 43:2485 (December 2017).

**§109. State Standards**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2452 (November 2004), LR 35:2327 (November 2009), repealed LR 43:2485 (December 2017).

**Chapter 3. Initial State Approval for Teacher or Educational Leader Preparation Programs**

**§301. Process/Procedures [Formerly §201]**

A. No later than July 1, 2018, teacher preparation programs shall demonstrate alignment to Part CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, and this bulletin as revised and approved by BESE in October 2016. Teacher preparation providers with extenuating circumstances may request an extension of the July 1, 2018, deadline to demonstrate alignment to revised policies. Providers shall submit the extension request by January 1, 2018, for BESE consideration.

B. The LDE and the (BOR) staff shall review~~s~~ proposals from public and private, new or reinstated teacher or educational leader preparation pathways or programs for initial approval. When the application review is complete and the application is recommended for approval, a recommendation shall be made to BESE and, when applicable, BOR for initial approval. Upon approval by

BESE and, when applicable, BOR, the teacher or educational leader preparation program may begin admitting candidates to the teacher or educational leader program.

C. The state may conduct scheduled and/or unscheduled reviews of the teacher and/or educational leader preparation unit/program, including on-site visits, at any time during the process.

D. Public and out-of-state private universities' documents may be submitted to the BOR for program approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2452 (November 2004), amended LR 35:2327 (November 2009), LR 37:560 (February 2011), LR 43:2485 (December 2017).

**§303. Initial Approval**
**[Formerly §203]**

A. Initial approval is granted upon approval by BESE and, when applicable BOR, through submission of a proposal to the LDE.

B. University and non-university providers seeking approval to offer a teacher or educational leader preparation program shall demonstrate eligibility by providing, at a minimum:

1. official declaration of intent in the form of a letter from the head of the institution or organization;

2. evidence of regional accreditation status (e.g., Southern Association of Colleges and Schools) for universities only;

3. evidence that the faculty who teach courses or provide direct coaching to teacher or educational leader candidates possess sufficient knowledge, skills, training, and expertise;

4. evidence to show that the governing structure of the institution or organization endorses and financially supports a teacher or educational leader preparation unit and programs (e.g., full budget report for the implementation of programs, including internal and external sources of funding, and including both hard and soft monies);

5. evidence of an articulation agreement to transfer credit hours with another Louisiana-approved teacher or educational leader preparation institution that agrees to recommend the institution's candidates for certification, as needed, for continuous progress and program completion or, for non-university providers, a plan to make students financially whole in the event of institution or program closure;

6. a description of the provider's system for monitoring and evaluating its candidates, programs, operations, and the performance of its graduates. This description must reflect how the education unit or education program assesses programs, effectiveness, and candidates as well as how the provider provides follow-up data on its graduates;

7. if the provider is currently operating or has operated in Louisiana or any other state, evidence of program completers' teaching and/or leading effectiveness, including but not limited to principal survey results, state accountability system and evaluation results, and local assessment or evaluation results.

C. In order to be recommended for BESE approval, teacher preparation programs must, at minimum:

1. be designed to develop and ensure candidates' mastery of the teacher and/or educational leader competencies required for certification. The program design must center on courses and practice experiences that integrate content, theory, and practice; expressly treat current Louisiana student standards and instructional resources; and require candidates to demonstrate mastery of required competencies through a series of performance assessments and tasks:

a. in undergraduate programs offered by university providers, descriptions of coursework must include evidence of ample opportunity to develop content area mastery, instruments for assessing candidates' content knowledge, and procedures for remediation, if necessary. For the purposes of initial approval, an academic major in the content area for secondary certification areas may be considered evidence of "ample opportunity;"

b. in post-baccalaureate programs offered by university and non-university providers, descriptions of coursework or contact hours must include instruments for assessing candidates' content knowledge for teaching and/or leading, and procedures for remediation, if necessary;

2. pursuant to R.S. 17:7.1.4(a)(b), teacher preparation programs shall include the minimum number of credit hours or equivalent contact hours in the teaching of reading and literacy as follows. The required courses or training shall develop and assess candidates' mastery of applicable literacy competencies, which are found in Part CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*;

3. include required practice experiences for teacher preparation, including, at minimum, a one-year supervised residency in a school setting. In addition to the one-year residency, the candidate must be provided actual practice experience in classroom settings within schools with varied socioeconomic characteristics. The requirements for the one-year residency and for required practice experiences for undergraduate and post-baccalaureate preparation programs are described in detail in Chapter 7 of this bulletin. Evidence of quality must include, but is not limited to, the provider's commitment to:

a. recruit, develop, and evaluate clinical faculty who model effective practical teaching knowledge and skills; and

b. ensure alignment of program faculty, residency school site administrator, and residency school site mentor teacher expectations for candidates' development and performance;

4. be jointly developed and administered in partnership with one or more local educational agencies in which candidates complete the one-year residency. Evidence of partnership shall include, but not be limited to, a formal agreement, such as a memorandum of understanding or memorandum of agreement, that includes:

a. roles of and responsibilities of program faculty, LEA leaders, residency school site administrators, and residency school site mentor teachers;

b. criteria and process for residency school site selection, development, and evaluation of effectiveness, to occur in concert with LEA leadership;

c. targets, criteria, and process for mentor teacher recruitment, development, and evaluation, to occur in concert with LEA leadership;

d. protocols for administering assessments of candidates' teaching skill in cooperation with the residency school site administrator or his/her designee during the one-year residency and in general alignment with the partner LEA's teacher evaluation system pursuant to the requirements in teacher preparation/certification/evaluation, *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*; and

e. protocols for the secure exchange of data relative to program improvement and evaluation.

D. The LDE shall utilize evaluation tools to conduct qualitative assessments of teacher and/or educational leader proposals to make initial approval recommendations. The evaluation tools must align to the requirements set forth in this bulletin, including, but not limited, to Louisiana state standards for teacher preparation outlined in Chapter 1 of this bulletin.

E. Upon receipt, teacher and/or educational leader proposals shall undergo a preliminary review by the LDE for completeness. Proposals that are determined to be complete and meet all initial submission requirements shall undergo an evaluation process conducted by panel of reviewers. Proposals that do not meet all initial submission requirements shall receive a notice of pending denial. Providers shall provide the required material within seven days. If providers do not provide the required material, the proposal shall be denied. Proposals may be resubmitted no sooner than one calendar year following the date of initial submission to the LDE.

F. Teacher and/or educational leader proposals that meet all initial submission requirements shall be evaluated by a panel of reviewers. The panel shall include at least one external reviewer. An external reviewer may serve as a preparation program administrator, a preparation program faculty member, or a current or former K-12 educator or leader. The panel shall evaluate each proposal using an evaluation tool that was reviewed by representatives from LDE and BOR and shall evaluate the proposal to ensure the proposal meets professional, state, and, when applicable, national standards for quality and state certification policy. The panel's evaluation shall include an interview with the provider and at least one partner LEA. The panel may interview additional representatives of the provider and LEA partner organizations.

G. The result of the evaluation shall be sent by the LDE to the teacher and/or educational leader provider. A proposal that fully meets all structural and policy requirements according to the program proposal guidelines shall be recommended for BESE approval at the next scheduled BESE meeting. A proposal that is not recommended by the LDE for approval because it does not meet the policy or structural requirements according to the program proposal guidelines may be resubmitted to the LDE for reconsideration no sooner than one calendar year following the date of initial submission to the LDE. Proposals that are not recommended for approval a second time or are recommended for approval by the LDE but not approved by BESE may be resubmitted to the LDE for reconsideration no sooner than two calendar years following the date of resubmission to the LDE.

H. BESE shall notify the point of contact listed in the proposal submitted by the teacher and/or educational leader providers of the decision. Notification will be sent in writing via US mail.

1. Once BESE has granted initial approval of the proposed program, the provider is authorized to admit candidates to the program and recommend program completers for certification. Providers subject to BOR regulations shall gain BOR approval prior to admitting candidates to the program.

2. If BESE does not grant initial approval of the proposed program, the teacher or educational leader provider is eligible to resubmit the proposal. Proposals that are not recommended by BESE for approval may be resubmitted to the LDE for reconsideration no sooner than one calendar year following the date of initial submission to the LDE. Proposals that are not recommended by BESE for approval a second time may be resubmitted to the LDE for reconsideration no sooner than two calendar years following the date of resubmission to the LDE.

I. Teacher and/or educational leader proposals for initial approval shall be accepted and considered by BESE twice per year. Application timelines shall be established and published annually one year in advance of the notice of intent deadline for the first application cycle.

J. Approved teacher and/or educational leader preparation providers seeking approval to pilot innovative approaches to training teacher and/or educational leader candidates shall request BESE approval to pilot such approaches and recommend certification of candidates upon completion of the program.

K. BESE may rescind program approval if the teacher and/or educational leader preparation program has been found to be or have been operating outside of the teacher preparation program requirements outlined in this Chapter and in Part CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2453 (November 2004), amended LR 35:2327 (November 2009), LR 37:561 (February 2011), LR 43:2486 (December 2017).

**§305. Level II Approval**
**[Formerly §205]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2453 (November 2004), amended LR 33:2607 (December 2007), LR 35:2328 (November 2009), LR 37:561 (February 2011), repealed LR 43:2487 (December 2017).

**§307. Level III Approval**
**[Formerly §207]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2454 (November 2004), amended LR 33:2608 (December 2007), LR 35:2328 (November 2009), LR 37:561 (February 2011), LR 40:1001 (May 2014), repealed LR 43:2487 (December 2017).

**§309. Level IV Approval**
**[Formerly §209]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2454 (November 2004), amended LR 35:2328 (November 2009), LR 37:562 (February 2011), repealed LR 43:2488 (December 2017).

## Chapter 4. Teacher Preparation Program Accountability and Renewal of Teacher Preparation Program Approval

**§401. Ongoing Approval of Teacher Preparation Programs**
**[Formerly §1101]**

A. In order to offer a state-approved teacher preparation program that allows teachers to become certified by the LDE, teacher preparation providers shall follow the process/procedures detailed in Chapter 3 of this document. For continued state approval, university and non-university providers must maintain effective ratings on the Louisiana teacher preparation quality rating system.

B. The LDE shall annually produce and make publicly available a performance profile for each approved preparation provider that includes information at the pathway level. The LDE shall biennially produce and make publically available a quality rating for each approved preparation provider at the pathway level. A *pathway* is defined as the set of teacher preparation programs that are offered to undergraduate candidates and the set of teacher preparation programs that are offered to post-baccalaureate candidates.

C. Renewal decisions shall be made every two years during the first accountability cycle and shall be based on the quality rating produced biannually. Each teacher preparation provider that receives a quality rating of level 3 or above shall move to a four-year accountability cycle for that pathway.

D. Teacher preparation providers that do not maintain a quality rating of level 3 or above on the Louisiana teacher preparation quality rating system and as reported in the biennial quality rating shall:

1. undergo a corrective action period during which the provider develops an improvement plan that includes specific improvement goals, timelines, and measures of success for particular pathway(s) or program(s). The improvement plan shall be approved by BESE. Once approved, the provider shall submit progress reports to BESE as established in the approved plan;

2. BESE shall review data outlined in the improvement plan and the Louisiana teacher preparation quality rating system to inform required interventions, which shall include, but are not limited to, one or more of the following:

a. require the provider to enact certain improvement recommendations for one or more pathways or programs;

b. designate program(s) as low performing and at risk of low performance per the federal Higher Education Act;

c. limit or discontinue enrollment for one or more pathways or programs;

d. discontinue the provider's ability to recommend teacher candidates for certification in one or more pathways or programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:754 (April 2010), amended LR 37:565 (February 2011), LR 43:2488 (December 2017).

**§403. Teacher Preparation Quality Rating System Participation and Performance Profile Implementation Timeline**

A. Per §101 of this bulletin, beginning December 2017 the process for ongoing approval of teacher preparation programs shall be replaced with a uniform process that applies equally to university and non-university providers.

B. Prior to fall 2018, the LDE shall review this Chapter and recommend revisions to BESE as necessary and as based on findings from the design phase, and in consultation with the BOR and K-12 and higher education experts.

C. The 2017-2018 academic year shall be a research phase for the teacher preparation quality rating system. Performance measures and processes shall be piloted and studied. Evaluation tools, including a framework for the on-site review, shall be developed and reviewed by experts to ensure suitability for use in the teacher preparation quality ratings system. If produced, individual providers' performance profiles shall not be published.

D. Beginning with the 2018-2019 academic year, providers that do not participate in the quality rating system or any component thereof shall have their approval terminated.

E. The 2018-2019 and the 2019-2020 academic years shall be a learning phase for all BESE-approved teacher preparation providers. There shall be no consequences for teacher preparation providers as a result of performance profiles or quality rating during the learning phase. Performance profiles for the 2018-2019 and 2019-2020 learning phase shall be publicly available and shall clearly indicate that the performance profile is informational and assigned during a learning phase.

F. The 2020-2021 academic year shall be the first year of the initial two-year renewal cycle.

G. For providers that achieve initial approval after September 1, 2018, the renewal cycle shall begin on September 1 of the year directly following BESE approval.

H. Beginning winter 2019-2020, the LDE shall annually produce and make publicly available on its website a performance profile for each approved preparation provider. LDE shall biennially produce and make publicly available on its website a quality rating for each approved preparation provider. The quality rating shall not be used to make judgments about renewal of preparation program approval until winter 2022-2023.

I. Beginning with ratings assigned in winter 2022-2023, Louisiana teacher preparation quality rating system results

shall serve as the basis for preparation program renewal. The renewal cycle shall be two years. The renewal cycle shall be four years for teacher preparation providers that receive a level 3 or higher, contingent upon maintaining a level 3 or higher as reported on the next performance profile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2488 (December 2017).

**§405. Louisiana Teacher Preparation Quality Rating System**

A. The Louisiana teacher preparation quality rating system shall serve as the basis for the renewal of teacher preparation program approval. The rating system shall:

1. include multiple measures of preparation program success; and

2. result in an annual report ("performance profile") for each approved provider at the pathway level;

3. result in a biennial rating ("quality rating") for each approved provider at the pathway level.

a. The ratings shall be:

| Quality Rating | Composite Score Range |
|---|---|
| Level: Ineffective | x<1.5 |
| Level 2: Needs Improvement | 1.5≤ x <2.5 |
| Level 3: Effective | 2.5≤ x <3.5 |
| Level 4: Highly Effective | 3.5≤ x |

B. The Louisiana teacher preparation quality rating system shall include but not be limited to the following domains:

1. preparation program experience, as measured by on-site reviews of each teacher preparation provider. The on-site review shall be conducted at the provider level and shall result in one rating for each pathway. The on-site review shall also include reporting at the program level, when appropriate. An on-site review shall be conducted once per renewal cycle. Providers participating in a two-year renewal cycle shall be reviewed every other year; providers participating in a four-year renewal cycle shall be reviewed once during the four-year cycle. The biennial quality rating shall reflect the most recently issued on-site review rating. When logistically and fiscally feasible and appropriate, the provider may request the specific years and semesters during which the on-site review is conducted. Such requests must be submitted to the LDE no less than one year before the renewal period begins:

a. on-site reviews may be conducted by the LDE or by a BESE-approved contractor with demonstrated expertise in teacher preparation. The evaluation tools used to conduct on-site reviews shall align to the requirements set forth in this bulletin and provide for a holistic rating between 1 and 4;

2. meeting educator workforce needs, as measured by the percentage of program completers in high-need certification areas and/or the percentage of residents placed in high-need schools:

a. for this domain, program completers shall include candidates who were recommended for initial licensure as well as candidates who completed at least 80 percent of an add-on endorsement with one preparation provider;

b. high-need certification areas shall be established every four years, beginning fall 2017 and every fall four years thereafter. High-need certification areas are those that align with the highest percentage of classes being taught by out-of-field or uncertified teachers across the state;

c. a list of high-need schools shall be established every four years, beginning fall 2017 and every fall four years thereafter. High-need schools may be defined as:

i. schools with a high percentage of minority or economically disadvantaged students;

ii. schools that are less geographically proximate to teacher preparation providers or schools underserved by current teacher preparation providers;

d. district-based teacher preparation programs may use the same methodology described above to define high-need certification areas and high-need schools at the local level;

3. teacher quality:

a. teacher quality shall be measured by program completers' value-added results for up to but not more than three years following program completion; and other measures of program completers' impact on student learning, as approved by BESE;

b. the teacher quality domain shall undergo a research phase during which such measures are developed and tested in consultation with the BOR and K-12 and higher education experts. By fall 2018, the LDE shall recommend such measures to BESE, if appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2489 (December 2017).

**§407. Quality Rating Calculation**

A. The LDE in collaboration with the BOR and K-12 and higher education experts shall periodically review the overall rating calculation including, but not limited to, data collected on the informational metrics and determine whether additional factors should be included in the rating calculation and whether adjustments should be made to the rating calculation. The LDE shall submit a report to BESE relative to the teacher preparation quality rating system in winter 2018-2019 and every two years thereafter, as deemed necessary and appropriate. Such report(s) shall include recommendations relative to refinements to the teacher preparation quality rating system including, but not limited to, adjustments to the factors included in the rating calculation, the overall rating calculation, and indices.

B. The quality rating for a preparation provider shall be calculated by weighting each domain as follows.

1. Preparation program experience shall be weighted at 50 percent.

2. Meeting educator workforce needs shall be weighted at 25 percent.

3. Teacher quality shall be weighted at 25 percent.

C. The quality rating for a preparation provider with a low number of program completers shall be calculated using only the domain(s) for which scores can be calculated.

D. The quality rating corresponds to the composite score range listed below. All numbers used in the quality rating calculation process shall be rounded to the nearest tenth, unless otherwise specified.

| Quality Rating | Composite Score Range |
|---|---|
| Level 1: Ineffective | x<1.5 |
| Level 2: Needs Improvement | 1.5≤ x <2.5 |
| Level 3: Effective | 2.5≤ x <3.5 |
| Level 4: Highly Effective | 3.5≤ x |

E. The preparation program experience score shall be determined by the on-site review rating.

| On-Site Review Rating | Score Range |
|---|---|
| Level 1: Ineffective | x=1 |
| Level 2: Needs Improvement | x=2 |
| Level 3: Effective | x=3 |
| Level 4: Highly Effective | x=4 |

F. The meeting workforce needs score shall be determined by calculating the percentage of program completers in high-need certification areas and the percentage of program candidates completing residencies in high-needs schools.

1. Points are earned on a four-point scale according to:

| Percentage of Program Completers in a High-Need Areas/Residents in a High-Need School | Points |
|---|---|
| Below Need—below need for both measures | 2.0 |
| Meets Need—at need or up to 20 percentage points above need for at least one measure | 2.5 |
| Exceeds Need—more than 20 percentage points above need for one measure | 3.0 |
| Exceeds Need—more than 20 percentage points above need for both measures | 3.5 |
| Exceptional—more than 40 percentage points above need for one or both measures | 4.0 |

G. The LDE, in collaboration with the BOR and K-12 and higher education experts, shall study and propose to BESE in winter 2018-2019 the adoption of an index for the value-added measure of teacher preparation program completers and, if appropriate, the adoption of a new licensure assessment and a corresponding scoring methodology for the teacher quality domain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2489 (December 2017).

**§409. Performance Profiles**

A. The LDE shall develop and make publicly available a performance profile for each approved preparation provider beginning winter 2019-2020, and every winter thereafter. The performance profile shall include a quality rating as provided for in §405, including the scores and measures contributing to that quality rating, and informational metrics as provided for in §411.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2490 (December 2017).

**§411. Informational Metrics**

A. Informational metrics provide additional detail relative to the teacher preparation quality rating system domains and other measures of teacher preparation provider quality. Informational metrics may be reported at the program or pathway level and may include data relative to the placement of teachers in Louisiana schools; and the retention of teachers in Louisiana schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education. LR 43:2490 (December 2017).

**§413. Reporting for the Accountability System**

A. By December 31 each year, preparation providers shall annually report to the LDE, in the manner specified by the LDE, the following.

| Data Categories | Data Elements |
|---|---|
| Candidate and Graduate Biographical and Program Data | Name |
| | Birthdate |
| | Social Security Number |
| | Gender |
| | Race/Ethnicity |
| | Institution name |
| | Program type (e.g., undergraduate, post-baccalaureate; certification-only, MAT) |
| | Student category( candidate or graduate) |
| | Date candidate admitted to program |
| | Date candidate graduated or completed program |
| | Number of candidates who dropped from program during most recent academic year |
| | Certification area(s) |
| | Certification code(s) |
| Candidate Admissions and Test Data | GPA when admitted to program |
| | High school GPA |
| | ACT or SAT score |
| | Date ACT or SAT was taken |
| | Highest post-baccalaureate degree achieved |
| | GRE score |
| | Praxis tests taken |
| | Praxis scores |
| | TEACH Grant recipient status |
| | TOPS Award Recipient Status |
| Graduates' Completion Data | Observation scores used to make certification recommendations |
| | Grade Point Average at program completion |

B. Program completers shall be defined as candidates who completed their programs during the most recent academic year, which is defined as September 1 of one year to August 31 of the following year.

C. This annually reported data, coupled with certification and effectiveness data from the LDE, shall form the official record for the calculation of the quality rating. The LDE shall provide for a data verification process for the official record as outlined in §415 of this bulletin.

D. Preparation providers shall report candidate data that is subject to the provisions of FERPA only when candidates have provided the necessary permissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2490 (December 2017).

**§415. Data Verification, Appeals, and Waivers**

A. A data verification process and procedures for appeals and waivers shall be used to correct inaccurate quality rating data and address unforeseen and aberrant factors affecting teacher preparation providers.

1. The LDE shall establish a data verification process for preparation providers to correct inaccurate quality rating

data. The LDE shall provide a period (or periods) of not less than 15 calendar days for final review, correction, and verification of accountability data. All data correction must occur during the designated data verification period. Each preparation provider must collect documentation for every data element that is submitted for correction and maintain documentation on file for at least four years. The LDE shall review all data corrections during the verification period and grant approval of those proven valid. The LDE may request documentation to support the validity of the corrections.

2. An appeal is a request for the calculation or recalculation of the quality rating or any component score. The appeal procedure is created to address issues when the literal application of program accountability or program renewal policy does not consider certain unforeseen and unusual circumstances. Appeals shall not be available for failure to correct data during the data verification process.

3. A waiver is a temporary withholding of accountability decisions or required components of the quality rating system for no more than one accountability year. The waiver procedure is created to address issues when the literal application of program accountability or program renewal policy does not consider certain unforeseen circumstances. Waivers shall be denied to aggrieved parties attempting to subvert the intent of provisions outlined in federal or state law or policy.

4. The procedure for appeals and waivers is as follows.

a. A preparation provider may request an appeal/waiver by submitting a written request to the state superintendent of education within 15 calendar days of the LDE's release of the preparation provider's performance profile.

b. All appeal/waiver requests must clearly state the specific reasons for requesting the appeal/waiver and the reasons why the appeal/waiver should be granted and must include any necessary supporting documentation.

c. Supporting documentation for appeal/waiver requests should clearly outline the unforeseen and unusual factors that generate the request. The preparation provider shall be responsible for supplying the LDE with information necessary for recalculating accountability components per applicable policy.

d. Data corrections shall not be the grounds for an appeal/waiver, as all data corrections shall be made prior to release of performance profiles regardless of the source of any errors.

e. The LDE shall review all timely submitted appeal/waiver requests and, if the request meets guidelines described in this section, make recommendations to BESE following the close of the appeal/waiver period. Within this interval, the LDE shall notify preparation providers of its recommendations and allow the provider to respond in writing. The preparation provider shall be notified of the recommendation and allowed to respond in writing. The LDE's recommendations and preparation provider's responses will be forwarded to BESE for final disposition, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2490 (December 2017).

## Chapter 5. State Approval for Non-University Private Provider Teacher and/or Educational Leader Preparation Programs

### §501. Process/Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:562 (February 2011), amended LR 41:918 (May 2015), repealed LR 43:2491 (December 2017).

### §503. Preliminary Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:562 (February 2011), repealed LR 43:2491 (December 2017).

### §505. Evaluation Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:562 (February 2011), repealed LR 43:2491 (December 2017).

### §507. Board Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:563 (February 2011), repealed LR 43:2491 (December 2017).

### §509. Board Denial

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:563 (February 2011), repealed LR 43:2491 (December 2017).

## Chapter 7. Louisiana State Standards for Educator Preparation Programs

## Subchapter A. Traditional Teacher Preparation Programs

### §703. Overview

A. The following are deadline dates for approved traditional teacher preparation programs that meet requirements described in this Subchapter:

1. by no later than August 31, 2022—last date for candidates enrolled in traditional teacher preparation programs approved prior to October 1, 2016 to complete those programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1318 (July 2017), amended LR 43:2491 (December 2017).

## Subchapter B. Alternate Teacher Preparation Programs

### §731. Introduction

A. The following are deadline dates for approved alternate teacher preparation programs that meet requirements described in this Subchapter:

1. by no later than August 31, 2021—last date for candidates enrolled in approved alternate teacher preparation programs that were approved prior to October 1, 2016 to complete programs.

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 43:1325 (July 2017), amended, LR 43:2491 (December 2017).

**Subchapter C. Teacher Preparation Programs: Adopted October 2016**

**§741. Introduction**

A. …

B. Current approved preparation providers must demonstrate alignment of approved traditional and alternate programs to the program requirements described in this subchapter and be approved by BESE before July 1, 2018. Providers shall seek approval by submitting assurances or, if seeking to offer an innovative model as described in §743 of this bulletin, by submitting an innovative design application. The LDE shall publish the assurances and the innovative design application on the LDE website in fall 2017.

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 43:1330 (July 2017), amended LR 43:2492 (December 2017).

**§743. Minimum Requirements for Traditional Teacher Preparation Programs**

A. - C.2.d. …

3. A one-year out-of-state residency placement in a school in a classroom with a teacher of record who holds a valid certificate in the area for which the candidate is pursuing certification may be permitted when the teacher preparation program is approved to operate in the state in which the residency will take place. An out-of-state residency placement must be indicated by the teacher preparation program with the application for the resident teacher certificate.

a. Beginning July 1, 2018, candidates must hold a valid resident teacher certificate in order to be placed in a one-year residency.

b. For certification in B-K, PK-3, 1-5, or 1-5 integrated to merged, candidates must spend a minimum of 80 percent of the residency school site's instructional time each week engaged in residency activities.

c. For certification in K-12, 4-8, 6-12, 4-8 integrated to merged or 6-12 integrated to merged, candidates must spend a minimum of 60 percent of the residency school site's instructional time each week in the first semester and 80 percent of the residency school site's instructional time each week in the second semester engaged in residency activities.

d. Teacher preparation providers may seek approval to offer an innovative residency model that does not meet the minimum instructional time requirements but meets a specific workforce need and includes high-quality clinical experiences throughout the program and intensive clinical experiences throughout the residency year.

4. The residency shall include a combination of the following experiences:

a. instructional goal-setting and planning, including individual education plan (IEP) and individual accommodations plan (IAP) review and implementation;

b. classroom teaching;

c. analysis of student assessment results, including formative and summative assessment data, student work samples, and observations of student class discussions;

d. parent-teacher conferences and communication; and

e. interactions and collaboration with other teachers.

5. The teacher candidate shall be supervised in all residency experiences by a team comprised of a school-based mentor teacher, the residency school site principal or designee, and program faculty member. The supervision shall include, at minimum, two formal observations of teaching practice per semester, which shall include feedback on performance and analysis of formative and summative student achievement results and candidate performance data. Observations may be conducted by any member of the supervision team.

6. Candidates may complete clinical experiences through general education or content courses that integrate content, pedagogy, and practice.

D. - E.2. …

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 43:1330 (July 2017), LR 43:2492 (December 2017).

**§745. Minimum Requirements for Alternate Teacher Preparation Programs**

A. - D.2.e. …

3. Requests for a one-year out-of-state residency placement may be permitted when the teacher preparation program is approved to operate in the state that the residency will occur. Such requests must be submitted by the teacher preparation program with the application for the resident teacher certificate or prior to the candidate beginning a residency as a teacher of record out-of-state.

4. The teacher candidate shall be supervised in all residency experiences by a team comprised of a school-based mentor teacher, the residency school site principal or designee, and program faculty member.

a. The supervision shall include, at minimum, two formal observations of teaching practice per semester, which shall include feedback on performance and analysis of formative and summative student achievement results and candidate performance data. Observations may be conducted by any member of the supervision team.

5. Practitioner teacher programs shall require candidates to complete the residency as a teacher of record. Candidates must hold a valid practitioner teacher license pursuant to Bulletin 746.

6. Master's degree or certification-only alternate programs shall allow candidates to complete the residency as a teacher of record or in a classroom under a teacher of record.

a. candidates may complete the residency as a teacher of record and must hold a valid practitioner teacher license pursuant to Bulletin 746; or

b. candidates may complete the one-year residency in a classroom a public or approved non-public school in a classroom in the certification area with a teacher of record who holds a valid level 1, 2, 3, type A, or type B teaching

certificate in the area for which the candidate is pursuing certification pursuant to Bulletin 746. The residency may include practice with other teachers in a public or approved non-public school setting. Residents placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness pursuant to state law and Bulletin 130:

i. effective July 1, 2018, candidates must hold a valid resident teacher certificate. The residency may include practice with other teachers in the public or approved non-public school setting;

ii. for certification in PK-3, 1-5, or 1-5 integrated to merged, candidates must spend a minimum of 80 percent of the residency school site's instructional time each week engaged in residency activities; and

iii. for certification in K-12, 4-8, 6-12, 4-8 integrated to merged or 6-12 integrated to merged, candidates must spend a minimum of 60 percent of the residency school site's instructional time each week in the first semester and 80 percent of the residency school site's instructional time each week in the second semester engaged in residency activities;

iv. teacher preparation providers may seek approval to offer an innovative residency model that does not meet the minimum instructional time requirements but meets a specific workforce need and includes high-quality clinical experiences throughout the program and intensive clinical experiences throughout the residency year.

E. - F.3. …

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 43:1331 (July 2017), amended LR 43:2492 (December 2017).

**Chapter 11. Teacher Preparation Program Accountability**

**§1101. Programmatic Intervention [Formerly §501]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:754 (April 2010), amended LR 37:565 (February 2011), repealed LR 43:2493 (December 2017).

Shan N. Davis
Executive Director

1712#011

## RULE

## Board of Elementary and Secondary Education

Bulletin 1508—Pupil Appraisal Handbook
(LAC 28:CI.703, 709, 725, and 1101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1508—Pupil Appraisal Handbook*: §703, Deaf-Blindness; §709, Deaf and/or Hard of Hearing; §725, Visual Impairment; and §1101, Required Reevaluations. The amendments align policy with laws recently enacted by the Louisiana Legislature.

**Title 28**
**EDUCATION**
**Part CI. Bulletin 1508—Pupil Appraisal Handbook**
**Chapter 7. Disabilities**

**§703. Deaf-Blindness**

A. - B.2.a. ...

3. Educational Need

a. Educational determination that the student's combined vision and hearing losses are such that he/she cannot be served appropriately solely by the special education program for either visual impairments or deafness and/or a hearing loss.

C. - D.3. ...

4. the educational assessment conducted should verify that the student's combined vision and auditory losses are such that he/she cannot be served appropriately by a program for students with visual or deafness and/or a hearing loss;

5. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:905 (May 2009), effective July 1, 2009, amended LR 43:2493 (December 2017).

**§709. Deaf and/or Hard of Hearing**

A. Definition. *Deaf* and/or *Hard of Hearing*—a loss of hearing, whether permanent or fluctuating, that adversely affects a student's educational performance. It includes deafness, which is a hearing disability that is so severe that the student is disabled in processing linguistic information through hearing, with or without amplification.

A.1. - C. …

D. Additional Procedures for Evaluation

1. …

2. An assessment of the student's hearing sensitivity, acuity, with and without amplification shall be conducted by a physician with specialized training or experience in the diagnosis and treatment of a hearing loss and/or a licensed audiologist.

3. - 3.d. …

4. The statewide assessment center for students who are deaf and/ or hard of hearing may be used as a resource to conduct the evaluation.

D.5. - E.2.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:908 (May 2009), effective July 1, 2009, amended LR 43:2493 (December 2017).

**§725. Visual Impairment**

A. Definition. *Visual Impairment* (including *blindness*)—an impairment in vision that even with corrections adversely affects a student's educational performance. The term includes both partial sight and blindness.

1. If a student has the two disabilities of deafness and blindness, the student must be classified as having deaf-blindness and not developmental delay or multiple disabilities. The LEA shall notify state deaf-blind census of all students who have both visual and hearing disabilities

B. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:914 (May 2009), effective July 1, 2009, amended LR 43:2493 (December 2017).

**Chapter 11. Reevaluation Information**

**§1101. Required Reevaluations**

A. - C.1.a. …

b. a triennial evaluation may be necessary for students with developmental delays, deafness and/or a hearing loss, traumatic brain injury, or visual impairments. Refer to the specific disabilities in Chapter 7 for further guidance;

C.1.c. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:916 (May 2009), effective July 1, 2009, amended LR 43:2494 (December 2017).

Shan N. Davis
Executive Director

1712#010

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
(LAC 28:XLIII.113, 460, 530, and 905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*: §113, Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices; §460, Purpose and Jurisdiction; §530, Authority of School Personnel; and §905, Definitions. The amendments align policy with laws recently enacted by the Louisiana Legislature.

**Title 28**
**EDUCATION**
**Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act**
**Subpart 1. Students with Disabilities**

**Chapter 1. State Eligibility**

**Subchapter B. Other FAPE Requirements**

**§113. Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices**

A. Hearing Aids. Each public agency shall ensure that hearing aids worn in school by students are functioning properly.

B. - B.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2039 (October 2008), amended LR 43:2494 (December 2017).

**Chapter 4. Special School District (SSD) and BESE Special Schools (BSS)**

**Subchapter B. BESE Special Schools**

**§460. Purpose and Jurisdiction**

A. BESE special schools are designated to provide FAPE for students who have been evaluated and classified as having low-incidence impairments, including but not limited to deafness and/or hearing loss, visual impairments, or orthopedic impairments, that meet the criteria for admission for each such special school.

B.1. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2066 (October 2008), amended LR 43:2494 (December 2017).

**Chapter 5. Procedural Safeguards**

**Subchapter B. Discipline Procedures for Students with Disabilities**

**§530. Authority of School Personnel**

A. - B.2. …

3. No form of corporal punishment shall be administered to a student with an exceptionality, excluding students identified as gifted and talented, as defined in R.S. 17:1942 or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

4. *Corporal Punishment*—using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.

5. Corporal punishment does not include:

a. the use of reasonable and necessary physical restraint of a student to protect the student, or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student;

b. the use of seclusion and restraint as provided in R.S. 17:416.21.

C. - I.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2076 (October 2008), amended LR 43:2494 (December 2017).

**Chapter 9. General**

**Subchapter B. Definitions used in these Regulations**

**§905. Definitions**

*Adapted Physical Education*—specially designed physical education for eligible students with disabilities.

* * *

*Hearing Impairment*—Repealed.

* * *

*Student with a Disability*—

1. General:

a. *student with a disability*—a student evaluated in accordance with §§305 through 312 of these regulations and determined as having an intellectual disability, a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in these regulations as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, hearing

disabilities, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services;

1.b.i. - 3.b. …

c. *deafness*—a hearing loss that is so severe that the student is disabled in processing linguistic information through hearing, with or without amplification that adversely affects a student's educational performance;

d.i. - d.ii. …

e. *hard of hearing*—a loss of hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but that is not included under the definition of *deafness* in Subparagraph 3.c above;

f. - m. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2089 (October 2008), amended LR 36:1505 (July 2010), LR 38:2368 (September 2012), LR 42:235 (February 2016), LR 43:2494 (December 2017).

Shan N. Davis
Executive Director

1712#009

## RULE

## Office of the Governor
## Board of Pardons
## and
## Committee on Parole

Medical Parole/Medical Treatment Furlough
(LAC 22:XI.307)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Committee on Parole has amended LAC 22:XI.307. This rulemaking implements Act 280 of the Regular Session of the Louisiana Legislature. Act 280 creates the medical treatment furlough program to be administered by the Department of Public Safety and Corrections, but provides that the authority to grant medical treatment furlough rests solely with the Committee on Parole. This Rule establishes that a medical treatment furlough can only be granted upon the recommendation of the secretary of the Department of Public Safety and Corrections.

### Title 22
### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
### Part XI. Committee on Parole
### Chapter 3. Parole—Eligibility and Types
### §307. Medical Parole/ Medical Treatment Furlough

A. An offender determined by the Department of Public Safety and Corrections to be permanently disabled offender or terminally ill offender may be eligible for medical parole consideration.

1. Upon referral by the Department of Public Safety and Corrections, the committee may schedule the offender for a hearing for medical parole consideration.

2. Offenders who are serving a sentence for conviction of first degree murder, second degree murder, or who are sentenced to death are not eligible for medical parole consideration.

3. Medical parole consideration shall be in addition to any other parole for which an offender may be eligible. An offender eligible for both medical parole and traditional parole under the provisions of R.S. 15:574.4 shall be first considered for traditional parole.

B. *Permanently Disabled Offender*—any offender who is unable to engage in any substantial gainful activity by reason of any medically-determinable physical impairment which can be expected to result in death or which is or can be expected to be permanently irreversible.

C. *Terminally Ill Offender*—any offender who, because of an existing medical condition, is irreversibly terminally ill. For the purposes of this Section, "terminally ill" is defined as having a life expectancy of less than one year due to an underlying medical condition.

D. An offender determined by the secretary of the DPS and C to be a limited-mobility offender may be considered for medical treatment furlough release to an off-site medical facility appropriate to meet the offender's medical and treatment needs.

1. *Limited-Mobility Offender*—for the purpose of a medical treatment furlough, any offender who is unable to perform activities of daily living without help or is bed bound, including but not limited to prolonged coma and medical ventilation.

E. Public hearings for medical parole or medical treatment furlough consideration will be held at a location convenient to the committee and the offender and shall be conducted in accordance with board policies, 05-0511, Public Hearings/Videoconferencing and 05-511-A, Special Needs. The committee may request that additional medical information be provided or that further medical examinations be conducted.

F. The authority to grant medical parole or medical treatment furlough shall rest solely with the committee.

1. The committee shall determine the risk to public safety and shall granted medical parole or medical treatment furlough only after determining that the offender does not pose a high risk to public safety. In the assessment of risk, emphasis shall be given to the offender's medical condition and how this relates to his overall risk to society.

2. Generally, medical parole or medical treatment furlough consideration shall not be given to an offender when the offender's medical condition was present at the time of sentencing, unless the offender's overall condition has significantly deteriorated since that time.

3. The committee, if it grants medical parole or medical treatment furlough, may establish any additional conditions of medical parole as it may deem necessary to monitor the offender's physical condition and to assure that the offender is not a danger to himself and society.

G. The parole term of an offender released on medical parole or medical treatment furlough shall be for the remainder of the offender's sentence. Supervision of an offender released on medical parole or medical treatment furlough shall consist of periodic medical evaluations at intervals to be determined by the committee at the time of release.

1. An offender released on medical parole or medical treatment furlough may have his parole revoked if his

medical condition improves to such a degree that he is no longer eligible for medical parole or medical treatment furlough.

a. If the offender's medical parole or medical treatment furlough is revoked due to an improvement in his condition, and he would be otherwise eligible for parole, he may then be considered for parole under the provisions of R.S. 15:574.4.

2. Medical parole or medical treatment furlough may also be revoked for violation of any condition of parole as established by the committee.

H. The Division of Probation and Parole (P and P) shall monitor offenders that have been granted medical parole or medical treatment furlough until the offender's death or the expiration of their sentence. P and P shall submit a monthly report of all medical paroles to the board chair by the tenth of each month. The report must include the latest narrative report from the offender's P and P office, date and time of death if indicated, and any other information deemed to be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2270 (August 2013), LR 41:43 (January 2015), LR 42:1283 (August 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:2495 (December 2017).

Sheryl M. Ranatza
Board Chair

1712#001

## RULE

## Department of Health
## Board of Pharmacy

Pharmacy Technicians (LAC 46:LIII.Chapter 9)

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 has amended Chapter 9, Pharmacy Technicians, of its rules. The amended rules will become effective January 1, 2018.

## Title 46
## PROFESSIONAL AND OCCUPATIONAL STANDARDS
## Part LIII. Pharmacists
### Chapter 9. Pharmacy Technicians
### §901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

* * *

*CPE Monitor*—a collaborative service from the National Association of Boards of Pharmacy (NABP) and the Accreditation Council for Pharmacy Education (ACPE) that provides an electronic system for pharmacists and pharmacy technicians to record and track their completed CPE activities.

* * *

*Pharmacy Technician Candidate*—an individual, registered by the board, training to become a pharmacy technician, who assists in the practice of pharmacy under the direct and immediate supervision of a Louisiana-licensed pharmacist.

*Training Program*—a pharmacy technician training program that is currently nationally-accredited and has been approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2485 (November 2004), effective January 1, 2005, amended LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2496 (December 2017), effective January 1, 2018.

### §903. Pharmacy Technician Candidates

A. Registration

1. All pharmacy technician candidates shall obtain a registration from the board prior to performing any professional functions in a pharmacy; failure to do so may result in disciplinary action by the board.

2. Qualifications

a. The applicant shall be at least 18 years of age, as evidenced by a valid and legible copy of a birth certificate or other appropriate credential.

b. The applicant shall be of good moral character and non-impaired.

c. The applicant shall satisfy one of the following eligibility criteria:

i. proof of enrollment in a nationally-accredited and board-approved pharmacy technician training program; or

ii. proof of successful completion of a board-approved technician certification examination, and further, proof of successful completion of a high school approved by a state department of education or an equivalent degree of education, as evidenced by a valid and legible copy of a diploma, transcript, or other appropriate credential; or

iii. proof of credentialing as a pharmacy technician by another state board of pharmacy as well as evidence of practice as a pharmacy technician for at least one year in that state, and further, proof of successful completion of a board-approved technician certification examination.

d. Exceptions

i. A pharmacist or pharmacist intern whose board credential has been denied, suspended, revoked, or restricted for disciplinary reasons by any board of pharmacy shall not be a pharmacy technician candidate or pharmacy technician.

ii. A pharmacist or pharmacist intern whose board credential is lapsed shall not be a pharmacy technician candidate or pharmacy technician until such lapsed credential is recalled through non-disciplinary board action.

3. Issuance and Maintenance

a. - b. …

c. The registration shall expire 24 months after the date of issuance, and it shall not be renewable.

d. Termination of Enrollment; Status of Registration

i. In the event the candidate is no longer enrolled in a nationally-accredited and board-approved pharmacy technician training program for any reason other than graduation, the candidate no longer meets the eligibility criteria to possess the registration, and the candidate shall

relinquish the registration to the board, giving notice of their last day of enrollment in the program.

ii. In the event a candidate fails to relinquish their registration when required to do so, or when notified by the board office of that requirement, the board staff shall inactivate the registration and refer the matter to the board for its consideration of disciplinary action against the candidate.

iii. In the event the candidate should re-enroll in the original program or a different program, and gives proof of that enrollment to the board, the board may re-issue the registration with the original expiration date preserved.

iv. In its discretion, the board may grant an exception to the original expiration date upon request by the candidate demonstrating unusual circumstances.

e. A pharmacy technician candidate shall notify the board, in writing, no later than 10 days following a change of mailing address. The written notice shall include the candidate's name, registration number, and old and new addresses.

f. A pharmacy technician candidate shall notify the board, in writing, no later than 10 days following a change in location(s) of employment. The written notice shall include the candidate's name, registration number, and name, address, and permit numbers for old and new employers.

B. Training Programs

1. All training programs approved by the board shall maintain their national accreditation.

2. The training program shall notify the board when a pharmacy technician candidate is no longer enrolled in the program. Evidence of a program's failure to comply with this rule shall constitute sufficient basis for the withdrawal of the board's approval for the program.

3. The training program shall provide an appropriate credential to the pharmacy technician candidate who has successfully completed the program, provided, however, that such credential shall not be formatted in such a manner to lead anyone to believe that credential resembles a document providing legal authority to practice as a pharmacy technician.

C. Practical Experience

1. The candidate shall possess a registration prior to performing any permitted professional function or earning any practical experience in a pharmacy.

2. The candidate shall wear appropriate attire and be properly identified as to name and candidate status while on duty in the prescription department.

3. A candidate shall not work in a permitted site that is on probation with the board, or with a pharmacist who is on probation with the board.

4. The candidate's registration shall evidence his authority to earn practical experience in a pharmacy, under the supervision of a pharmacist, in satisfaction of the requirements for pharmacy technician certification:

a. in the event the registration was issued to an applicant enrolled in a nationally-accredited and board-approved training program, the candidate shall earn the amount of experience prescribed by the curriculum of that program, which may include hours earned in a consultant pharmacy practice which does not hold a pharmacy permit; or

b. in the event the registration was issued to an applicant by any other method, the candidate shall earn at least 600 hours of practical experience in a pharmacy in Louisiana, provided however, that a candidate may receive board credit for a maximum of 50 hours per week.

5. Hours of practical experience earned by a candidate shall expire two years after the expiration date of the registration.

D. Examination

1. A board-approved technician examination shall consist of integrated pharmacy subject matter and any other disciplines the board may deem appropriate in order to permit the candidate to demonstrate his competency. The candidate shall achieve a passing score, as determined by the board.

2. Re-Examination

a. Following the first or second unsuccessful attempt of an examination, the candidate may be permitted to retake that examination.

b. Following the third unsuccessful attempt of an examination, the candidate shall wait one year after the date of the last examination to retake that examination. If the candidate fails to wait the prescribed one-year period, the board may delay any future certification until that one-year period has elapsed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, repromulgated LR 19:1025 (August 1993), amended LR 23:1307 (October 1997), LR 30:2485 (November 2004), effective January 1, 2005, LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2496 (December 2017), effective January 1, 2018.

**§905. Pharmacy Technician Certificate**

A. Qualifications

1. - 2. …

3. An applicant shall demonstrate one of the following educational competencies.

a. In the event the applicant obtained their technician candidate registration on the basis of their enrollment in a nationally-accredited and board-approved pharmacy technician training program, the applicant shall demonstrate successful completion of that training program, or in the alternative, another nationally-accredited and board-approved pharmacy technician training program.

b. In the event the applicant obtained their technician candidate registration by any other method, the applicant shall demonstrate the acquisition of at least 600 hours of practical experience under the supervision of a pharmacist, using a form supplied by the board.

4. An applicant shall demonstrate successful completion of a board-approved technician examination, as evidenced by a valid and legible copy of the appropriate credential.

B. Issuance and Maintenance

1. Upon receipt of a properly completed application, copies of valid and legible credentials, the appropriate fee, and any other documentation required by the board, and following verification that all requirements have been satisfied, the board may issue a pharmacy technician certificate to the applicant for the current renewal period.

2. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, repromulgated LR 19:1025 (August 1993), LR 30:2486 (November 2004), effective January 1, 2005, amended LR 38:1235 (May 2012), amended LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2497 (December 2017), effective January 1, 2018.

**§907. Scope of Practice**

A. - B.5. …

C. Pharmacy technicians shall not:

1. - 2. …

3. counsel patients.

AUTHORITY NOTE Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), effective January 1, 2005, amended LR 32:1049 (June 2006), amended by the Department of Health, Board of Pharmacy, LR 43:2498 (December 2017), effective January 1, 2018.

**§909. Continuing Education**

A. …

B. Certified pharmacy technicians shall maintain copies of their individual records of personal CPE activities with CPE monitor and shall authorize the board's access to their file by recording their Louisiana pharmacy technician certificate number within that file, and shall present a copy of their CPE monitor transcript when requested by the board.

C. - D.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 17:779 (August 1991), repromulgated LR 19:1025 (August 1993), amended LR 23:1308 (October 1997), LR 30:2487 (November 2004), effective January 1, 2005, amended LR 39:1778 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2498 (December 2017), effective January 1, 2018.

Malcolm J. Broussard
Executive Director

1712#040

## RULE

## Department of Health
## Bureau of Health Services Financing

Applied Behavior Analysis-Based Therapy Services
Custodial Care Services (LAC 50:XV.301)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**
**PUBLIC HEALTH—MEDICAL ASSISTANCE**
**Part XV. Services for Special Populations**
**Subpart 1. Applied Behavior Analysis-Based Therapy Services**

**Chapter 3. Services**

**§301. Covered Services and Limitations**

A. - F.4. ...

5. custodial care;

a. - a.i. ...

ii. is provided primarily for maintaining the recipient's or anyone else's safety; or

5.a.iii. - 6.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 41:926 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2498 (December 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1712#028

## RULE

## Department of Health
## Bureau of Health Services Financing

Home and Community-Based Services Providers
Licensing Standards
(LAC 48:I.Chapters 50 and 51)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapters 50 and 51 as authorized by R.S. 36:254 and R.S. 40:2120.2. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:950 et seq.

**Title 48**
**PUBLIC HEALTH—GENERAL**
**Part I. General Administration**
**Subpart 3. Licensing and Certification**

**Chapter 50. Home and Community-Based Services Providers Licensing Standards**

**Subchapter A. General Provisions**

**§5001. Introduction**

A. Pursuant to R.S. 40:2120.2, the Department of Health (LDH) has established the minimum licensing standards for home and community-based services (HCBS) providers. These licensing provisions contain the core requirements for HCBS providers as well as the module-specific requirements, depending upon the services rendered by the HCBS provider. These regulations are separate and apart from Medicaid standards of participation or any other requirements established by the Medicaid Program for reimbursement purposes.

B. - C.8. ...

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. - 1.a. ...

b. provides sitter services;

c. ...

d. provides home modifications/environmental accessibility adaptations and/or assessments; or

e. provides personal emergency response system/assistive technology/devices;

D.2. - 4. ...

5. any person who is employed as part of a departmentally authorized self-direction program; and

a. ...

6. any agency that provides residential orientation and adjustment programs for blind persons.

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 40:1007 (May 2014), LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2498 (December 2017).

**§5003. Definitions**

* * *

*Activities of Daily Living* (*ADLs*)—the functions or basic self-care tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. Activities of daily living may include, but are not limited to, bathing, dressing, eating, grooming, walking, transferring and/or toileting.

* * *

*Assistance with Activities of Daily Living*—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the tasks for the individual, hands-on assistance with the performance of the tasks, or supervision and prompting to allow the individual to self-perform such tasks.

*Branch*—an office from which in-home services such as personal care attendant (PCA), supervised independent living (SIL) and respite are provided within the same LDH region served by the parent agency. The branch office shares administration and supervision.

*Cessation of Business*—provider is non-operational and/or has stopped offering or providing services to the community.

*Change in Health Status*—a significant decline in the client's health that will not normally resolve itself without further assessment and/or intervention by staff or licensed medical practitioners.

* * *

*Department*—the Louisiana Department of Health (LDH) or any of its sections, bureaus, offices or its contracted designee.

*DHH Region*—Repealed.

* * *

*Employed*—performance of a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired for a staff position.

* * *

*Geographic Location*—the LDH region in which the primary business location of the provider agency operates from.

*Health Standards Section* (*HSS*)—the licensing and certification section of the Department of Health.

* * *

*Individual Service Plan*—a service plan, person centered and developed for each client, that is based on a comprehensive assessment which identifies the individual's strengths and needs in order to establish goals and objectives so that outcomes to service delivery can be measured.

NOTE: For those clients receiving Medicaid reimbursed home and community-based services, a comprehensive plan of care prepared in accordance with policies and procedures established by Medicaid or by an LDH program office for reimbursement purposes may be substituted or used for the individual service plan.

*Individuals with Disabilities Education Act* (*IDEA*)—the law ensuring services to children with disabilities through the U.S. Department of Education which may include vocational training.

*Instrumental Activities of Daily Living* (*IADLs*)—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These are activities such as light house-keeping, food preparation and storage, grocery shopping, laundry, reminders to take medication, scheduling medical appointments, arranging transportation to medical appointments and assistance attending medical appointments if needed.

*LDH Region*—the geographic administrative regions designated by the Department of Health.

*Line of Credit*—a credit arrangement with a federally insured, licensed lending institution which is established to assure that the provider has available funds as needed to continue the operations of the agency and the provision of services to clients. The line of credit shall be issued to the licensed entity and shall be specific to the geographic location shown on the license. For purposes of HCBS licensure, the line of credit shall not be a loan, credit card or a bank balance.

*Mental Abuse*—includes, but is not limited to abuse that is facilitated or caused by taking or using photographs or recordings in any manner that would demean or humiliate a client using any type of equipment (e.g., cameras, smart phones, and other electronic devices) and/or keeping or distributing them through multimedia messages or on social media sites.

1. Mental abuse may occur through either verbal or nonverbal conduct which causes or has the potential to cause the client to experience humiliation, intimidation, fear, shame, agitation, or degradation, regardless of whether the client provided consent and regardless of the client's cognitive status. This may include, but is not limited to:

a. photographs and recordings of clients that contain nudity;

b. sexual and intimate relations;

c. bathing, showering or toileting;

d. providing perineal care such as after an incontinence episode;

e. agitating a client to solicit a response;

f. derogatory statements directed to the resident;

g. showing a body part without the client's face, whether it is the chest, limbs or back;

h. labeling a client's pictures and/or providing comments in a demeaning manner;

i. directing a client to use inappropriate language; and/or

j. showing a client in a compromised position.

* * *

*Non-Operational*—the HCBS provider location is not open for business operation on designated days and hours as stated on the licensing application and business location signage.

* * *

*Respite Care*—an intermittent service designed to provide temporary relief to unpaid, informal caregivers of the elderly and/or persons with disabilities.

*Satellite*—an alternate location from which center-based respite or adult day care services are provided within the same LDH region served by the parent agency. The satellite office shares administration and supervision.

*Service Area*—the LDH administrative region in which the provider's geographic business location is located and for which the license is issued.

* * *

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 40:1007 (May 2014), LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2499 (December 2017).

**§5005. Licensure Requirements**

A. All HCBS providers shall be licensed by the Department of Health. It shall be unlawful to operate as a home and community-based service provider without a license issued by the department. LDH is the only licensing authority for HCBS providers in Louisiana.

B. An HCBS license shall:

1. - 3. ...

4. enable the provider to render delineated home and community-based services within an LDH region;

5. - 8. ...

C. An HCBS provider shall provide only those home and community-based services or modules:

1. ...

2. only to clients residing in the provider's designated service area, LDH region, or at the provider's licensed location.

D. An HCBS provider may apply for a waiver from the Health Standards Section (HSS) to provide services to a client residing outside of the provider's designated service area or LDH region only under the following conditions.

1. A waiver may be granted by the department if there is no other HCBS provider in the client's service area or LDH region that is licensed and that has the capacity to provide the required services to the client, or for other good cause shown by the HCBS provider and client.

2. The provider shall submit a written waiver request to HSS prior to providing services to the client residing outside of the designated service area or LDH region.

D.3. - E. ...

1. Each HCBS provider shall have a business location which shall not be located in an occupied personal residence and shall be in accordance with the provisions of §5027 and §5031 of this Chapter.

a. The business location shall be part of the licensed location of the HCBS provider and shall be in the LDH region for which the license is issued.

b. The business location shall have at least one employee, either contracted or staff, on duty at the business location during the days and hours of operation as stated on the licensing application and business location signage.

c. ...

2. The ADC shall be open at least five hours on days of operation. Center-based respite facilities shall have the capacity to provide 24-hour services.

3. There shall be a sufficient number of trained direct care staff and professional services staff, either employed or contracted, available to be assigned to provide services to persons in their homes as per the plan of care. ADC services and center-based respite services should be sufficiently staffed during the facility's hours of operation.

E.4. - G. ...

H. If applicable, each HCBS provider shall obtain facility need review approval prior to initial licensing.

1. If an existing licensed HCBS provider who is not currently providing PCA, respite, MIHC or SIL services wants to begin providing these services, the provider shall be required to apply for facility need review approval for each of the requested services.

H.2. - J.1. Repealed.

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 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2500 (December 2017).

**§5007. Initial Licensure Application Process**

A. ...

B. The initial licensing application packet shall include:

1. - 2. ...

3. a copy of the on-site inspection report for the adult day care module and the center-based respite module with approval for occupancy by the Office of the State Fire Marshal;

4. ...

5. a copy of a statewide criminal background check, conducted by the Louisiana State Police, or its authorized agent, including sex offender registry status, on all owners and administrators;

a. each owner shall be at least aged 18 years;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000 that is:

i. current at the time of submission of the application for licensure; and

ii. issued to/in the name of the applicant at the geographic location shown on the application for licensure;

b. general and professional liability insurance in the amount of at least $300,000 that is current and in effect at the time of license application; and

c. worker's compensation insurance that is current and in effect at the time of license application;

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5007.B.6.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

7. a completed disclosure of ownership form which includes any controlling interest or ownership in any other licensed agencies;

8. - 10. ...

C. A person convicted of one or more of the following felonies is prohibited from being the owner or the administrator of an HCBS provider agency. For purposes of these provisions, the licensing application shall be rejected by the department for any felony conviction relating to:

C.1. - D.1. ...

2. If an initial licensing application is closed, an applicant who is still interested in becoming an HCBS provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process, subject to any facility need review approval.

E. Applicants for HCBS licensure shall be required to either attend a mandatory HCBS provider training class or complete the LDH online provider training when a completed initial licensing application packet has been received by the department.

F. Upon completion of the mandatory HCBS provider training class and written notification of satisfactory class completion from the department or upon submission of attestation of satisfactory completion of the LDH online provider training, an HCBS applicant shall be required to admit one client and contact the HSS field office to schedule an initial licensing survey.

1. Prior to scheduling the initial survey, applicants shall be:

a. - c. ...

2. If the applicant has not admitted one client or contacted the HSS field office to schedule an initial survey within 30 days of receipt of the written notification from the department, the application will be closed. If an applicant is still interested in becoming an HCBS provider, a new initial licensing packet with a new initial licensing fee shall be submitted to the department to start the initial licensing process, subject to any facility need review approval.

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

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 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2500 (December 2017).

**§5009. Initial Licensing Surveys**

A. - D.2. ...

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

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 by the Department of Health, Bureau of Health Services Financing, LR 43:2501 (December 2017).

**§5011. Types of Licenses and Expiration Dates**

A. - A.3. ...

B. The department, in its sole discretion, may issue a provisional license to an existing licensed HCBS provider for a period not to exceed six months. The department will consider the following circumstances in making a determination to issue a provisional license:

1. compliance history of the provider to include areas of deficiencies cited;

2. the nature and severity of any substantiated complaints;

a. Repealed.

3. - 5. ...

C. When the department issues a provisional license to an existing licensed HCBS provider, the provider shall submit a plan of correction to LDH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct a follow-up survey, either on-site or by desk review, of the HCBS provider prior to the expiration of the provisional license.

C.1. - D.3. ...

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

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 38:67 January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2501 (December 2017).

**§5012. Change in License by Addition or Deletion of a Service Module or Modules from the HCBS License**

A. Addition of a Service Module or Modules to existing HCBS License

1. An HCBS provider with an active HCBS license, current and in good standing, may submit a request to add a service module or modules. The following information shall be submitted for consideration of this request:

a. a completed HCBS license application which has "Add a Service" clearly marked;

b. a facility need review approval letter, if seeking to add the PCA, SIL, MIHC, or respite service modules; and

c. applicable fee for issuance of the new HCBS license.

B. Deletion of a Service Module or Modules to existing HCBS License

1. An HCBS provider with an active HCBS license may submit a request to delete a service module or modules. The following information shall be submitted for consideration of this request:

a. a completed HCBS license application which has "Delete a Service" clearly marked; and

b. applicable fee for issuance of the new HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2501 (December 2017).

**§5013. Changes in Licensee Information, Location, or Key Personnel**

A. - C.2.d. ...

D. If the HCBS provider changes its name without a change in ownership, the HCBS provider shall report such change to the department in writing five days prior to the change. The change in the HCBS provider name requires a change in the HCBS provider license. Payment of the applicable fee is required to re-issue the license.

1. - 2. Repealed.

E. Any request for a duplicate license shall be accompanied by the applicable fee.

F. If the HCBS provider changes the physical address of its geographic location without a change in ownership, the HCBS provider shall report such change to LDH in writing at least five days prior to the change. Because the license of an HCBS provider is valid only for the geographic location of that provider, and is not transferrable or assignable, the provider shall submit a new licensing application.

1. An on-site survey may be required prior to the issuance of the new license.

2. The change in the HCBS provider's physical address results in a new license renewal anniversary date and an additional full licensing fee shall be paid.

G. - G.2. Repealed.

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 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2502 (December 2017).

**§5014. Change of Ownership of an HCBS Provider**

A. The license of an HCBS provider is not transferable or assignable and cannot be sold.

B. A change of ownership (CHOW) of the HCBS provider shall not be submitted at time of the annual renewal of the provider's license.

C. Before an initial license can be issued to the new owner, all licensing application requirements shall be:

1. completed by the applicant in accordance with the provisions of §5007; and

2. submitted to the department for approval.

D. The applicant shall submit the following licensing requirements to the department:

1. the completed HCBS license application and non-refundable fee;

2. disclosure of ownership documentation;

3. proof of financial viability to include:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000 that is current at the time of the application for licensure and is issued to/in the name of the applicant at the geographic location shown on the application for licensure;

b. general and professional liability insurance of at least $300,000 that is current and in effect at the time of application for licensure; and

c. worker's compensation insurance that is current and in effect at the time of application for licensure.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5014.D.3.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

4. If center-based services such as adult day care or center-based respite are also being acquired in the change of ownership, the prospective new owner shall be required to submit approvals for occupancy from OPH and the State Fire Marshal. Such approvals shall be issued under the name of the center as given by the new owner.

E. An HCBS provider may not undergo a CHOW if any of the following conditions exist:

1. licensure is provisional, under revocation or denial of renewal;

2. is in a settlement agreement with the department;

3. has been excluded from participation from the Medicaid program;

4. has ceased to operate and does not meet operational requirements to hold a license as defined by §5031, Business Location, and in accordance with §5026, Cessation of Business.

F. The department may deny approval of the CHOW for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

G. If the CHOW results in a change of geographic address, an on-site survey may be required prior to issuance of the new license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2502 (December 2017).

**§5015. Renewal of License**

A. The HCBS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. - 2. ...

3. a current State Fire Marshal report for the adult day care module and the center-based respite module;

4. - 6. ...

7. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000 that is current at the time of the application for license renewal and is issued to/in the name of the applicant at the geographic location shown on the application for license renewal;

b. general and professional liability insurance of at least $300,000 that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license; and

c. worker's compensation insurance that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5015.A.7.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

B. ...

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the HCBS license.

NOTE: Upon expiration of the current license, the HCBS provider shall cease providing services in accordance with R.S. 40:2120.6 and shall meet the requirements of §5026 Cessation of Business.

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 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2502 (December 2017).

**§5016. Deemed Status through Accreditation**

A. - A.1. ...

2. all services provided under the HCBS license shall be accredited; and

A.3. - B. ...

C. The following may cause the state agency to perform a full licensing survey on an accredited HCBS provider:

1. any substantiated complaints in the preceding 12-month period;

2. addition of service module or modules;

3. ...

4. issuance of a provisional license in the preceding 12-month period;

5. serious violations of licensing standards or professional standards of practice that were cited in the preceding 12-month period that resulted in or had the potential for negative outcomes to clients served; or

6. allegations of inappropriate client treatment or services to a client resulting in death or serious injury.

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 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2503 (December 2017).

**§5017. Survey Activities**

A. - B. ...

C. The department shall require an acceptable plan of correction from a provider for any survey where deficiencies have been cited, regardless of whether the department takes other action against the facility for the deficiencies cited in the survey. The acceptable plan of correction shall be submitted within the prescribed timeframe to the department for approval.

D. ...

E. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, rules and regulations. Sanctions include, but are not limited to:

1. civil fines;

2. directed plans of correction;

3. license revocation; and/or

4. denial of license renewal.

F. LDH surveyors and staff shall be:

1. given access to all areas of the provider agency, and to all relevant administrative and/or clinical files during any survey as necessary or required to conduct the survey and/or investigation; and

2. ...

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 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2503 (December 2017).

**§5019. Statement of Deficiencies**

A. - C.1. ...

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement deficiencies.

4. ...

NOTE: Informal reconsiderations of the results of a complaint investigation are conducted as desk reviews.

5. ...

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for initial license denials, revocations and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

a. Repealed.

7. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does not delay submission of the required plan of correction within the prescribed timeframe.

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 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2503 (December 2017).

**§5021. Denial of Initial Licensure, Revocation of License, Denial of License Renewal**

A. - B.1. ...

2. The department may deny an initial license for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

3. If the department denies an initial license, the applicant for an HCBS provider license shall discharge the client(s) receiving services.

C. ...

D. Revocation of License or Denial of License Renewal. An HCBS provider license may be revoked or denied renewal for any of the following reasons, including but not limited to:

1. - 4. ...

5. failure to protect a client from a harmful act of an employee, either contracted or staff, or by another client including, but not limited to:

5.a. - 7.e. ...

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

9. - 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 current, and in effect, required insurance policies in accordance with the provisions of this Chapter.

E. In the event an HCBS provider license is revoked, renewal is denied or the license is surrendered in lieu of an adverse action, any owner, board member, director or administrator, and any other person named on the license application of such HCBS provider is prohibited from owning, managing, directing or operating another HCBS agency for a period of two years from the date of the final disposition of the revocation, denial action or surrender.

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 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2503 (December 2017).

**§5023. Notice and Appeal of Initial License Denial, License Revocation and Denial of License Renewal**

A. Notice of an initial license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. The HCBS provider has a right to an administrative reconsideration of the initial license denial, license revocation or denial of license renewal. There is no right to an administrative reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The HCBS provider shall request the administrative reconsideration within 15 calendar days of the receipt of the notice of the initial license denial, license revocation or denial of license renewal. The request for administrative reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section. The request for administrative reconsideration shall be considered timely if received by the Health Standards Section within 15 days from the provider's receipt of the notice.

2. The request for administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received by HSS, an administrative reconsideration shall be scheduled and the provider will receive written notification of the date of the administrative reconsideration.

4. The provider shall have the right to appear in person at the administrative reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the initial license denial, revocation or denial of license renewal shall not be a basis for reconsideration.

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

7. The provider will be notified in writing of the results of the administrative reconsideration.

C. The HCBS provider has a right to an administrative appeal of the initial license denial, license revocation or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The HCBS provider shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration.

a. The HCBS provider may forego its rights to an administrative reconsideration, and if so, shall request the administrative appeal within 30 calendar days of the receipt of the written notice of the initial license denial, revocation or denial of license renewal.

2. ...

3. If a timely request for an administrative appeal is received by the Division of Administrative Law, or its successor, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the provider pose an imminent or immediate threat to the health, welfare or safety of a client, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the provider will be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the initial license denial, license revocation or denial of license renewal shall not be a basis for an administrative appeal.

D. ...

E. If a timely administrative appeal has been filed by the provider on an initial license denial, denial of license renewal or license revocation, the Division of Administrative Law, or its successor, shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to reverse the initial license denial, denial of license renewal or license revocation, the provider's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final agency decision is to affirm the denial of license renewal or license revocation, the provider shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 calendar days of the final agency decision, the provider shall notify HSS, in writing, of the secure and confidential location where the client records will be stored and the name and contact information of the person(s) responsible for the client records.

F. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional

initial license to a new HCBS provider, or the issuance of a provisional license to an existing HCBS provider. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of initial licensure, denial of license renewal or license revocation.

G. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal, solely as to the validity of the deficiencies.

1. - 2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five calendar days of receipt of the written notice of the results of the follow-up survey from the department.

4. The provider shall request the administrative appeal within 15 calendar days of receipt of the written 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.

5. - 5.a. ...

6. 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 Division of Administrative Law, or its successor, shall conduct the hearing in accordance with the Administrative Procedure Act.

a. ...

b. If the final agency decision is to uphold the deficiencies thereby affirming the expiration of the provisional license, the provider shall ensure an orderly discharge and transition of any and all clients receiving services in accordance with the provisions of this Chapter.

i. Within 10 calendar days of the final agency decision, the provider shall notify HSS in writing of the secure and confidential location where the client records will be stored.

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 38:70 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2504 (December 2017).

**§5024. Inactivation of License due to a Declared Disaster or Emergency**

A. An HCBS provider licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the licensed provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the HCBS provider has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the licensed HCBS provider intends to resume operation as an HCBS provider in the same service area;

c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another provider; and

e. provides a list of each client and where that client is discharged or transferred to;

2. the licensed HCBS provider resumes operating as a HCBS provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed HCBS provider continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed HCBS provider continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a HCBS provider license, the department shall issue a notice of inactivation of license to the HCBS provider.

C. Upon completion of repairs, renovations, rebuilding or replacement, an HCBS provider which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The HCBS provider shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The provider resumes operating as an HCBS provider in the same service area within one year.

D. Upon receiving a completed written request to reinstate an HCBS provider license, the department shall conduct a licensing survey. If the HCBS provider meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the HCBS provider license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the adult day care and center-based respite provider at the time of the request to inactivate the license.

E. No change of ownership in the HCBS provider shall occur until such HCBS provider has completed repairs,

renovations, rebuilding or replacement construction, and has resumed operations as an HCBS provider.

F. The provisions of this Section shall not apply to an HCBS provider which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the HCBS provider license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2505 (December 2017).

**§5025. Inactivation of License due to a Non-Declared Disaster or Emergency**

A. A licensed HCBS in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the licensed HCBS shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the HCBS has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the licensed HCBS intends to resume operation as an HCBS provider in the same service area;

c. the licensed HCBS attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the licensed HCBS's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

e. Repealed.

2. the licensed HCBS continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the licensed HCBS continues to submit required documentation and information to the department, including but not limited to cost reports.

4. Repealed.

B. Upon receiving a completed written request to temporarily inactivate a HCBS license, the department shall issue a notice of inactivation of license to the HCBS.

C. Upon the facility's receipt of the department's approval of request to inactivate the facility's license, the facility shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the OSFM and the OPH as required.

1. - 2. Repealed.

D. The licensed HCBS shall resume operating as an HCBS in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the facility requires an extension of this timeframe due to circumstances beyond the facility's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show facility's active efforts to complete construction or repairs and the reasons for request for extension of facility's inactive license. Any approval for extension is at the sole discretion of the department.

1. Repealed.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, an HCBS which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the HCBS shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate an HCBS license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership in the HCBS shall occur until such HCBS has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an HCBS.

H. The provisions of this Subsection shall not apply to an HCBS which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the HCBS license.

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 38:72 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2506 (December 2017).

**§5026. Cessation of Business**

A. Except as provided in §5024 and §5025 of these licensing regulations, a license shall be immediately null and void if an HCBS provider becomes non-operational.

B. A cessation of business is deemed to be effective the date on which the HCBS provider ceased offering or providing services to the community and/or is considered non-operational in accordance with §5005.E.1.b.

C. Upon the cessation of business, the HCBS 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 HCBS 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 HCBS provider shall:

1. give 30 days' advance written notice to:

a. each client or client's legal representative, if applicable;

b. each client's physician;

c. HSS;

d. OCDD;

e. OAAS;

f. support coordination agency for waiver participants;

g. state contractor for state plan LT-PCS services;

2. provide for a safe and orderly discharge and transition of all of the HCBS provider's clients.

F. In addition to the advance notice, the provider shall submit a written plan for the disposition of client services related records for approval by the department. The plan shall include the following:

1. the effective date of the closure;

2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's client services related records;

3. the name and contact information for the appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the patient 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;

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 an HCBS provider fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning an HCBS for a period of two years.

H. Once any HCBS provider has ceased doing business, the provider shall not provide services until the provider has obtained a new initial HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2506 (December 2017).

## Subchapter B. Administration and Organization

### §5027. Governing Body

A. - A.3. ...

B. The governing body of an HCBS provider shall:

1. - 8. ...

9. ensure statewide criminal background checks on all unlicensed persons providing direct care and services to clients in accordance with R.S. 40:1203.2 or other applicable state law upon hire;

NOTE: Upon request of the employer with approval of the governing body, each applicant for employment may be fingerprinted in accordance with applicable state law to be used to obtain the criminal history record.

10. ensure that the provider does not hire unlicensed persons who have a conviction that bars employment in accordance with R.S. 40:1203.3 or other applicable state law;

a. the provider shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law; and

11. ensure that direct support staff comply with R.S. 40:1203.2 or other applicable state law.

NOTE: It is not acceptable for a provider to have a client, family member or legal representative sign a statement that they acknowledge the direct support worker has a conviction that bars employment but they still choose to have that individual as the worker. The provider is expected to be in compliance with statutory requirements at all times.

C. An HCBS provider shall maintain an administrative file that includes:

1. a list of members and officers of the governing body, along with their addresses and terms of membership;

2. minutes of formal meetings and by-laws of the governing body, if applicable;

3. a copy of the current license issued by HSS;

4. an organizational chart of the provider which clearly delineates the line of authority;

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

6. insurance policies;

7. annual budgets and audit reports; and

8. a master list of all the community resources used by the provider.

9. Repealed.

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 38:72 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2507 (December 2017).

### §5029. Policy and Procedures

A. The HCBS provider shall develop, implement and comply with provider-specific written policies and procedures related to compliance with this Chapter, including, but not limited to policies and procedures that:

1. - 2. ...

3. provide for the protection of clients' rights; and

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

B. The HCBS provider shall have written policies and procedures approved by the owner or governing body, which shall be implemented and followed, that address at a minimum the following:

1. confidentiality and confidentiality agreements;

2. security of files;

3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;

4. personnel;

5. client rights;

6. grievance procedures;

7. client funds;

8. emergency preparedness;

9. abuse, neglect, exploitation and extortion;

10. incidents and accidents, including medical emergencies;

11. universal precautions;

12. documentation;

13. admission and discharge procedures; and

14. safety of the client while being transported by an agency employee, either contracted or directly employed, to include a process for evaluation of the employee's driver's license status inquiry report which may prohibit an employee from transporting clients.

C. The HCBS provider shall develop, implement and comply with written personnel policies that include the following:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members, that includes but is not limited to:

a. standards of conduct;

b. standards of attire to include having identification as an employee of the provider accessible when providing services to clients; and

c. standards of safety to include requirements for ensuring safe transportation of clients by employees, contracted or staff, who provide transportation;

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

3. policies that shall, at a minimum, be consistent with Office of Public Health guidelines for services provided;

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees, either contracted or directly employed, to report any and all incidents of abuse or mistreatment or misappropriation of client funds, whether that abuse or mistreatment or misappropriation is done by another staff member, a family member, a client or any other person;

6. a written policy to prevent discrimination;

7. a written policy to assure that there is a final disposition of all charges that appear on the staff person's or contracted employee's criminal background check; and

8. a written policy to address prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restricted use of social media an include, at a minimum ensuring confidentiality of client information and preservation of client dignity and respect, and protection of client privacy and personal and property rights.

D. The HCBS provider shall have written policies and procedures for client behavior management which:

1. prohibit:

a. corporeal punishment;

b. restraints of any kind;

c. psychological and verbal abuse;

d. seclusion;

e. forced exercise;

f. any cruelty to, or punishment of, a client; and

g. any act by a provider which denies:

i. food;

ii. drink;

iii. visits with family, friends or significant others; or

iv. use of restroom facilities;

NOTE: §5029.D.1.g.i-iv is not inclusive of medically prescribed procedures.

2. ensure that non-intrusive positive approaches to address the meaning/origins of behaviors are used prior to the development of a restrictive plan; and

3. cover any behavioral emergency and provide documentation of the event in an incident report format.

E. An HCBS provider shall comply with all federal state and local laws, rules and regulations in the development and implementation of its policies and procedures.

1. - 13. Repealed.

F. An HCBS provider shall ensure that all home and community-based waiver services are delivered in settings that are physically accessible to the client when the setting is controlled by the HCBS provider.

F.1. - I. Repealed.

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 38:73 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2507 (December 2017).

**§5031. Business Location**

A. All HCBS providers shall have a business location in the LDH region for which the license is issued. The business location shall be a part of the physical geographic licensed location and shall be where the provider:

1. ...

2. maintains and stores the provider's personnel records;

3. maintains and stores the provider's client service records;

4. holds itself out to the public as being a location for receipt of client referrals; and

5. after initial licensure, consistently provides services to at least two clients.

EXCEPTION: Adult Day Care shall have 10 or more clients pursuant to R.S. 40:2120.2(4)(e).

B. The business location shall have:

1. a separate entrance and exit from any other entity, business or trade;

2. signage that is easily viewable indicating the provider's legal or trade name, address and days and hours of business operation as stated in the provider's license application.

a. Any planned deviation of the provider's days and hours of operation shall be reported to the Health Standards Section within five business days.

b. Any unplanned deviation of provider's days and hours of operation shall be reported to the Health Standards Section within two business days.

C. The HCBS provider shall operate independently from any other business or entity, and shall not operate office space with any other business or entity.

1. The HCBS provider may share common areas with another business or entity. Common areas include foyers, kitchens, conference rooms, hallways, stairs, elevators or escalators when used to provide access to the provider's separate entrance.

a. Repealed.

2. Records or other confidential information shall not be stored in areas deemed to be common areas.

3. - 7. Repealed.

D. The business location shall:

1. be commercial office space or, if located in a residential area, be zoned for appropriate commercial use and shall be used solely for the operation of the business;

a. the business location shall not be located in an occupied personal residence;

2. have approval for occupancy from the Office of the State Fire Marshal and the Office of Public Health if located

at the same address as an adult day care center or center-based respite;

3. have a published telephone number which is available and accessible 24 hours a day, 7 days a week, including holidays;

4. have a business fax number that is operational 24 hours a day, 7 days a week;

a. - f. Repealed.

5. have internet access and a working e-mail address;

a. the e-mail address shall be provided to the department as well as any changes to the e-mail address within five working days to assure that the department has current contact information;

b. the e-mail address shall be monitored by the provider on an ongoing basis to receive communication from the department;

6. have space for storage of client records either electronically or in paper form or both in an area that is secure, safe from hazards and does not breach confidentiality of protected health information.

7. - 12. Repealed.

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 38:74 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2508 (December 2017).

**§5032. Branch Offices and Satellites of HCBS Providers**

A. HCBS providers with branch offices or satellite locations shall meet the following.

1. No branch office or satellite location may be opened without prior written approval from HSS. In order for a branch office or satellite location to be approved, the parent agency shall have maintained a full licensure for the previous 12-month period.

a. The number of any new branch or satellite locations for any provider within a geographic location may be limited at the discretion of HSS.

2. The department may consider the following in making a determination whether to approve a branch office or a satellite location:

a. compliance history of the provider to include the areas of non-compliance of the deficiencies cited within the last 12 months;

b. the nature and severity of any substantiated complaints within the last 12 months;

c. if the parent agency currently has a provisional license;

d. if the parent agency currently is in a settlement agreement with the department;

e. if the parent agency has previously been excluded from participation from the Medicaid program;

f. if the parent agency is currently under license revocation or denial of license renewal;

g. if the parent agency is currently undergoing a change of ownership; and

h. if any adverse action has been taken against the license of other agencies operated by the owner of the parent agency within the previous two-year period.

3. The branch office or satellite location shall be held out to the public as a branch, division, or satellite of the parent agency so that the public will be aware of the identity of the agency operating the branch or satellite.

a. Reference to the name of the parent agency shall be contained in any written documents, signs or other promotional materials relating to the branch or satellite.

4. Original personnel files shall not be maintained or stored at the branch office or satellite location.

5. A branch office or a satellite location is subject to survey, including complaint surveys, by the department at any time to determine compliance with minimum licensing standards.

6. A branch office or a satellite location shall:

a. serve as part of the geographic service area approved for the parent agency;

b. retain an original or a duplicate copy of all clinical records for its clients for a 12-month period at the branch or satellite location;

NOTE: If satellite or branch records are not maintained at the parent agency, such shall be made available as requested by the state surveyor without delaying the survey process;

c. maintain a copy of the agency's policies and procedures manual on-site for staff usage;

d. post and maintain regular office hours in accordance with §5031.B; and

e. staff the branch office or satellite location during regular office hours.

7. Each branch office or satellite location shall:

a. fall under the license of the parent agency and be located in the same LDH region as the parent agency;

b. be assessed the required fee, assessed at the time the license application is made and once a year thereafter for renewal of the branch or satellite license;

NOTE: This fee is non-refundable and is in addition to any other fees that may be assessed in accordance with applicable laws, rules, regulations and standards.

8. Existing branch office or satellite location approvals will be renewed at the time of the parent agency's license renewal, if the parent agency meets the requirements for licensure.

B. Branch Offices of HCBS Providers

1. An HCBS provider who currently provides in-home services such as PCA, respite, MIHC or SIL services may apply to the department for approval to operate a branch office to provide those same services.

a. HCBS providers are limited in the same LDH region as the parent agency at the discretion of HSS.

C. Satellite Locations of HCBS Providers

1. An HCBS provider who currently provides ADC services or provides center-based respite services may apply to the department for approval to operate a satellite location to provide additional ADC services or center-based respite services at that satellite location.

a. HCBS providers are limited in the same LDH region as the parent agency at the discretion of the HSS.

NOTE: The HSS may with good cause consider exceptions to the limit on numbers of satellite and/or branch locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2509 (December 2017).

## Subchapter C. Admission, Transfer and Discharge Criteria

### §5033. Admissions

A. An HCBS provider shall have written admissions policies and criteria which shall include the following:

1. - 3. ...

4. legal status of the clients served;

5. - 7. ...

B. The written description of admissions policies and criteria shall be made available to the client and his/her legal representative.

C. An HCBS provider shall ensure that the client, the legal representative or other persons, where appropriate, are provided an opportunity to participate in the admission process.

1. Consents as necessary for care and services shall be obtained from the client or legal representative, if applicable, prior to admission.

2. Where such involvement of the client, the legal representative, where appropriate, or other persons as selected by the client is not possible or not desirable, the reasons for their exclusion shall be recorded.

D. When refusing admission, a provider shall provide a written statement as to the reason for the refusal. This shall be provided to designated representatives of the department or to a client upon request.

E. - F. Repealed.

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 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2510 (December 2017).

### §5035. Voluntary Transfers and Discharges

A. A client has the right to choose a provider. This right includes the right to be discharged from his current provider, be transferred to another provider and to discontinue all services.

B. Upon notice by the client or authorized representative that the client has selected another provider or has decided to discontinue services or moves from the geographic region serviced by the provider, the HCBS provider shall have the responsibility of planning for a client's voluntary transfer or discharge.

C. The transfer or discharge responsibilities of the HCBS provider shall include:

1. holding a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are applicable, in order to facilitate an orderly transfer or discharge, unless the client or authorized representative declines such a meeting;

C.2. - D.1. ...

E. The provider shall not coerce the client to stay with the provider agency or interfere in any way with the client's decision to transfer. Failure to cooperate with the client's decision to transfer to another provider may result in further investigation and action as deemed necessary by the department.

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 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2510 (December 2017).

### §5037. Involuntary Transfers and Discharges

A. ...

1. The client's health has improved sufficiently so that the client no longer requires the services rendered by the provider.

2. ...

3. The client has failed to pay any past due amounts for services received from the provider for which he/she is liable within 15 days after receipt of written notice from the provider.

4. ...

5. The client or family refuses to cooperate or interferes with attaining the care objectives of the HCBS provider.

A.6. - C. ...

1. The written notice shall be sent to the client or to the authorized representative via certified mail, return receipt requested.

2. ...

3. When the client has failed to pay any outstanding amounts for services for which he/she has received from the provider and is liable, written notice may be given immediately. Payment is due within 15 days of receipt of written notice from the provider that an amount is due and owing.

4. - 5. ...

D. The written notice of involuntary transfer or discharge shall include:

1. - 4. ...

5. names of provider personnel available to assist the client or authorized representative and family in decision making and transfer arrangements;

D.6. - F.2.b. ...

3. If a client is given 15 days written notice and files a timely appeal of an involuntary transfer/discharge based on the client's failure to pay any outstanding amounts for services within the allotted time, the provider may discharge or transfer the client.

G. The transfer or discharge responsibilities of the HCBS provider shall include:

1. conducting a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate an orderly transfer or discharge;

G.2. - H. ...

1. The provider shall not be required to provide services if the discharge is due to the client moving out of the provider's geographic region. An HCBS provider is prohibited from providing services outside of its geographic region without the department's approval.

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 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2510 (December 2017).

**Subchapter D. Service Delivery**

**§5039. General Provisions**

A. ...

B. Assessment of Needs

1. Prior to any service being rendered, an HCBS provider shall conduct a thorough assessment of the client's needs to identify where supports and services are needed and whether the provider has the capacity to provide such needed care and services.

2. The provider shall not admit a client for whom they do not have the capacity to safely provide required services.

3. The assessment shall identify potential risks to the client and shall address, at a minimum the following areas:

a. life safety, including, but not limited to:

i. the ability of the client to access emergency services;

ii. the ability of the client to access transportation in order to obtain necessary goods and services (i.e. medical appointments, medications and groceries); and

iii. the ability of the client to evacuate the home in an emergent event, such as a fire in the home, or in the event of a declared disaster;

b. living environment including, but not limited to:

i. presence of physical hazards (i.e. objects that could cause falls, hot water temperatures that could contribute to scalds);

ii. presence of functional utilities; and

iii. presence of environmental hazards (i.e. chemicals, foods not kept at acceptable temperatures);

c. health conditions including, but not limited to:

i. diagnoses;

ii. medications, including methods of administration; and

iii. current services and treatment regimen;

d. functional capacity including but not limited to:

i. activities of daily living;

ii. instrumental activities of daily living including money management, if applicable;

iii. communication skills;

iv. social skills; and

v. psychosocial skills including behavioral needs; and

e. client financial health including, but not limited to:

i. the client's independent ability to manage their own finances;

ii. the client's dependence on a family member or other legal representative to manage the client's finances; and

iii. the client's need for the provider's assistance to manage the client's finances to assure that bills such as rent and utilities are paid timely.

4. The assessment shall be conducted prior to admission and at least annually thereafter. The assessment shall be conducted more often as the client's needs change.

5. An HCBS comprehensive assessment performed for a client in accordance with policies, procedures, and timeframes established by Medicaid or by an LDH program office for reimbursement purposes can substitute for the assessment required under these provisions.

6. The provider shall be familiar with the health condition of clients served. If the client has an observable significant change in physical or mental status, the provider shall ensure that the change is immediately reported so that the client receives needed medical attention by a licensed medical practitioner in a timely manner.

C. - C.4. Repealed.

D. - D.2.d. ...

3. An HCBS plan of care or agreement to provide services signed by the provider or client in accordance with policies, procedures, and timelines established by Medicaid or by an LDH program office for reimbursement purposes can substitute for the agreement required under these provisions.

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 by the Department of Health, Bureau of Health Services Financing, LR 43:2511 (December 2017).

**§5041. Individual Service Plan**

A. Upon admission and prior to the initiation of care and services, an individual service plan shall be person centered and developed for each client, based upon a comprehensive assessment.

B. - E. ...

F. The ISP shall include the following components:

1. - 3. ...

4. target dates for completion or re-evaluation of the stated goals;

5. identification of all persons responsible for implementing or coordinating implementation of the plan; and

6. documentation of all setting options for services, including non-disability specific settings, which the provider offered to the client, including residential settings.

G. ...

H. A comprehensive plan of care prepared in accordance with policies, procedures, and timelines established by Medicaid or by an LDH program office for reimbursement purposes may be substituted or used for the individual service plan.

I. Each client's ISP shall be reviewed, revised, updated and amended no less than annually, and more often as necessary, or as designated by the department, to reflect changes in the client's needs, services and personal outcomes.

J. Coordination of Services

1. Client care goals and interventions shall be coordinated in conjunction with other providers rendering care and services and/or caregivers to ensure continuity of care.

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 by the Department of Health, Bureau of Health Services Financing, LR 43:2511 (December 2017).

**§5043. Contract Services**

A. ...

B. When services are provided through contract, a written contract shall be established. The contract shall include all of the following items:

1. - 4. ...

5. a statement that the contracted personnel shall meet the same qualifications and training requirements as an employee of an HCBS agency who holds the same position;

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 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2511 (December 2017).

**§5045. Transportation**

A. ...

B. Any vehicle owned by the agency or its employees, either contracted or staff, used to transport clients shall be:

1. ...

2. maintained in an operational condition;

3. operated at an internal temperature that does not compromise the health, safety or needs of the client.

C. The provider shall have proof of liability insurance coverage in accordance with state law for any vehicle owned by the agency or its employees, either contracted or staff that are used to transport clients. The personal liability insurance of a provider's employee, either contracted or staff, shall not be substituted for the required vehicular insurance coverage.

D. Any staff member of the provider or other person acting on behalf of the provider, who is operating a vehicle owned by the agency or its employees, either contracted or staff, for the purpose of transporting clients shall be properly licensed to operate that class of vehicle in accordance with state law.

E. The provider shall have documentation of successful completion of a safe driving course for each staff or contract employee who transports clients. If the staff or contract employee does not transport clients, such shall be clearly documented in their personnel record.

1. Employees, either contracted or staff, who are required to transport clients as part of their assigned duties shall successfully complete a safe driving course within 90 days of hiring, every three years thereafter, and within 90 days of the provider's discovery of any moving violation.

F. Upon hire, and annually thereafter, the provider shall at a minimum, obtain a driver's license status inquiry report available on-line from the State Office of Motor Vehicles, for each employee, either contracted or directly employed, who is required to transport clients as part of their assigned duties.

G. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats with seatbelts in the transporting vehicle.

H. - I.3. ...

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 38:78 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2512 (December 2017).

**Subchapter E. Client Protections**

**§5049. Client Rights**

A. Unless adjudicated by a court of competent jurisdiction, clients served by HCBS providers shall have the same rights, benefits and privileges guaranteed by the constitution and the laws of the United States and Louisiana, including but not limited to the following:

1. human dignity;

2. impartial access to treatment regardless of:

a. race;

b. religion;

c. sex;

d. ethnicity;

e. age; or

f. disability;

3. cultural access as evidenced by:

a. interpretive services;

b. translated materials;

c. the use of native language when possible; and

d. staff trained in cultural awareness;

4. have sign language interpretation, allow for the use of service animals and/or mechanical aids and devices that assist those persons in achieving maximum service benefits when the person has special needs;

5. privacy;

6. confidentiality;

7. access his/her records upon the client's written consent for release of information;

8. a complete explanation of the nature of services and procedures to be received, including:

a. risks;

b. benefits; and

c. available alternative services;

9. actively participate in services, including:

a. assessment/reassessment;

b. service plan development; and

c. discharge;

10. refuse specific services or participate in any activity that is against their will and for which they have not given consent;

11. obtain copies of the provider's complaint or grievance procedures;

12. file a complaint or grievance without retribution, retaliation or discharge;

13. be informed of the financial aspect of services;

14. be informed of the need for parental or guardian consent for treatment of services, if appropriate;

15. personally manage financial affairs, unless legally determined otherwise;

16. give informed written consent prior to being involved in research projects;

17. refuse to participate in any research project without compromising access to services;

18. be free from mental, emotional and physical abuse, coercion and neglect;

19. be free from all restraints;

20. receive services that are delivered in a professional manner and are respectful of the client's wishes concerning their home environment;

21. receive services in the least intrusive manner appropriate to their needs;

22. contact any advocacy resources as needed, especially during grievance procedures;

23. discontinue services with one provider and freely choose the services of another provider;

24. freedom and support to control their own schedules and activities;

25. access to food at any time; and

26. have visitors of their choosing at any time.

B. An HCBS provider shall assist in obtaining an independent advocate:

1. if the client's rights or desires may be in jeopardy;

2. if the client is in conflict with the provider; or

3. upon any request of the client.

C. The client has the right to select an independent advocate, which may be:

1. a legal assistance corporation;

2. a state advocacy and protection agency;

3. a trusted church or family member; or

a. - d. Repealed.

4. any other competent key person not affiliated in any way with the licensed provider.

5. - 23. Repealed.

D. The client, client's family and legal guardian, if one is known, shall be informed of their rights, both verbally and in writing in a language they are able to understand.

D.1. - F. Repealed.

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 38:78 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2512 (December 2017).

**§5051. Grievances**

A. - C. ...

1. The agency shall provide the grievance procedure in writing to the client at admission and grievance forms shall be made readily available as needed thereafter.

D. ...

E. The administrator of the agency, or his/her designee, shall issue a written report and/or decision within five business days of receipt of the grievance to the:

1. - 3. ...

4. the person initiating the grievance.

F. The agency shall maintain documentation pursuant to §5051.A-E.4.

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 38:79 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2513 (December 2017).

**Subchapter F. Provider Responsibilities**

**§5053. General Provisions**

A. ...

B. Additional staff shall be employed or contracted as necessary to ensure proper care of clients and adequate provision of services.

C. ...

D. All client calls to the provider's published telephone number shall be returned within one business day. Each client shall be informed of the provider's published telephone number, in writing, as well as through any other method of communication most readily understood by the client according to the following schedule:

1. - 3. ...

E. HCBS providers shall establish policies and procedures relative to the reporting of abuse, neglect, extortion, or exploitation of clients pursuant to the provisions of R.S. 15:1504-1505, R.S. 40:2009.20 and any subsequently enacted laws. Providers shall ensure that staff complies with these regulations.

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 38:79 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2513 (December 2017).

**§5055. Core Staffing Requirements**

A. - B.1.a. ...

b. have a minimum of six years of verifiable experience working in a health or social service related business, plus a minimum of four additional years of verifiable experience working in a field providing services to the elderly and/or persons with developmental disabilities; or

c. is a registered nurse licensed and in good standing with the Louisiana State Board of Nursing and have at least two years' experience in providing care to the elderly or to adults with disabilities.

2. Any person convicted of a felony as defined in these provisions is prohibited from serving as the administrator of an HCBS provider agency.

C. Administrator Responsibilities. The administrator shall:

1. - 4. ...

5. employ, either by contract or staff, qualified individuals and ensure adequate staff education and evaluations;

C.6. - D.1.g. ...

2. Professional staff employed or contracted by the provider shall hold a current, valid professional license issued by the appropriate licensing board.

3. The provider shall maintain proof of annual verification of current professional licensure of all licensed professional staff.

4. All professional services furnished or provided shall be furnished or provided in accordance with professional standards of practice, according to the scope of practice requirements for each licensed discipline.

E. Direct Care Staff

1. The provider shall have sufficient numbers of trained direct care staff to safeguard the health, safety and welfare of clients.

2. - 3. ...

F. Direct Care Staff Qualifications

1. HCBS providers shall ensure that all non-licensed direct care staff, either contracted or employed, meet the minimum mandatory qualifications and requirements for direct service workers as required by R.S. 40:2179-40:2179.1 or a subsequently amended statute and any rules published pursuant to those statutes.

2. All direct care staff shall have the ability to read and write at a level that allows them to understand the client's services plan, document services provided, and carry out directions competently as assigned.

a. The training shall address needed areas of improvement, as determined by the worker's performance reviews, and may address the special needs of clients.

3. All direct care staff shall be trained in recognizing and responding to medical emergencies of clients.

G. Direct Care Staff Responsibilities. The direct care staff shall:

1. - 8. ...

9. be responsible for accurate daily documentation of services provided and status of clients to be reported on progress notes and/or progress reports.

H. Direct Care Staff Training

1. The provider shall ensure that each direct care staff, either contracted or employed, satisfactorily completes a minimum of 16 hours of training upon hire and before providing direct care and services to clients. Such training shall include the following topics and shall be documented, maintained and readily available in the agency's records:

a. the provider's policies and procedures;

b. emergency and safety procedures;

c. recognizing and responding to medical emergencies including:

i. knowing when to make an immediate call to 911; and

ii. knowing how to support the client while waiting for the emergency personnel to arrive such as maintaining an open airway for breathing, checking for the presence of a pulse, or stopping bleeding, when needed;

d. client's rights;

e. detecting and reporting suspected abuse and neglect, utilizing the department's approved training curriculum;

f. reporting critical incidents;

g. universal precautions;

h. documentation;

i. implementing service plans;

j. confidentiality;

k. detecting signs of illness or impairment that warrant medical or nursing intervention;

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

m. the management of aggressive behavior, including acceptable and prohibited responses; and

n. scald prevention training.

2. The provider shall ensure that each direct care staff, either contracted or employed, satisfactorily completes a basic first aid course within 45 days of hire.

3. Training received by a direct care staff worker from previous employment with a HCBS agency is transferrable between HCBS agencies when the hiring HCBS agency:

a. obtains from the previous employer proof of the employee's successful documented completion of any required training; and

b. obtains documented evidence of the employee's continued competency of any required training received during employment with the previous HCBS provider.

I. Competency Evaluation

1. A competency evaluation shall be developed and conducted to ensure that, at a minimum, each direct care staff, either contracted or employed, is able to demonstrate competencies in the training areas in §5055.H.

2. Written or oral examinations shall be provided.

3. The examination shall reflect the content and emphasis of the training curriculum components in §5055.H and shall be developed in accordance with accepted educational principles.

4. The provider shall ensure that those direct care staff with limited literacy skills receive substitute examination sufficient to determine written reading comprehension and competency to perform duties assigned.

J. Continuing Education

1. Annually thereafter, the provider shall ensure that each direct care staff, either contracted or employed, satisfactorily completes a minimum of eight hours of training in order to ensure continuing competence. Orientation and normal supervision shall not be considered for meeting this requirement. This training shall address the special needs of clients and may address areas of employee weakness as determined by the direct care staff person's performance reviews.

1.a. - 5.c. Repealed.

K. Volunteers/Student Interns

1. A provider utilizing volunteers or student interns on any regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall:

a. be directly supervised by a paid staff member;

b. be oriented and trained in the philosophy, policy and procedures of the provider, confidentiality requirements and the needs of clients;

c. have documentation of reference checks in accordance with facility policy.

d. - m. Repealed.

2. Volunteer/student interns shall be a supplement to staff employed by the provider but shall not provide direct care services to clients.

L. Direct Care Staff Supervisor. The HCBS provider shall designate and assign a direct care staff supervisor to monitor and supervise the direct care staff.

1. The supervisor shall be selected based upon the needs of the client outlined in the ISP.

2. A provider may have more than one direct care staff supervisor.

3. - 4. Repealed.

M. Direct Care Supervision

1. A direct care staff supervisor shall make an in-person supervisory visit of each direct care staff within 60 days of being hired or contracted and at least annually thereafter. Supervisory visits shall occur more frequently:

a. if dictated by the ISP;

b. as needed to address worker performance;

c. to address a client's change in status; or

d. to assure services are provided in accordance with the ISP.

2. The supervisory visit shall be unannounced and utilized to evaluate:

a. the direct care staff person's ability to perform assigned duties;

b. whether services are being provided in accordance with the ISP; and

c. if goals are being met.

3. Documentation of supervision shall include:

a. the worker/client relationship;

b. services provided;

c. observations of the worker performing assigned duties;

d. instructions and comments given to the worker during the onsite visit; and

e. client satisfaction with service delivery.

4. An annual performance evaluation for each direct care staff person shall be documented in his/her personnel record.

5. In addition to the in-person supervisory visits conducted with direct care staff, the provider shall visit the home of each client on a quarterly basis to determine whether the individual:

a. service plan is adequate;

b. continues to need the services; and

c. service plan needs revision.

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 40:1007 (May 2014), LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2513 (December 2017).

**§5057. Client Records**

A. Client records shall be accurately documented and maintained in the HCBS provider's office. Current progress notes shall be maintained at the home. The provider shall have a written record for each client which shall include:

A.1. - 6. ...

7. an accurate financial record of each client's personal funds which includes a written record of all of the financial transactions involving the personal funds of the client deposited with the provider;

a. the client (or his legal representative) shall be afforded access to such record; and

b. the financial records shall be available through quarterly statements;

c. Repealed.

8. - 11.a. ...

b. a description of any serious or life threatening medical condition(s); and

c. a description of any medical treatment or medication necessary for the treatment of any medical condition;

d. Repealed.

12. a copy of any signed and dated advance directive that has been provided to the HCBS provider, or any physician orders, signed and dated, relating to end of life care and services.

B. HCBS providers shall maintain client records for a period of no less than six years.

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 38:82 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2515 (December 2017).

**§5059. Client Funds and Assets**

A. The HCBS provider shall not require that the provider be the manager of the client's funds and shall develop and implement written policies and procedures to protect client funds. Clients shall have the right to control their personal resources.

B. In the case of a representative payee, all social security rules and regulations shall be adhered to. The provider shall obtain written authorization from the client and/or his/her legal or responsible representative if they will be designated as the representative payee of the client's social security payment.

C. If the provider manages a client's personal funds, the provider shall furnish a written statement which includes the client's rights regarding personal funds, a list of the services offered and charges, if any, to the client and/or his/her legal or responsible representative.

D. - E.6. ...

F. A client with a personal fund account managed by the HCBS provider may sign an account agreement acknowledging that any funds deposited into the personal account, by the client or on his/her behalf, are jointly owned by the client and his legal representative or next of kin. These funds do not include Social Security funds that are restricted by Social Security Administration (SSA) guidelines. The account agreement shall state that:

1. - 4. ...

5. the joint owner of a client's account shall not be an employee, either contracted or on staff, of the provider.

G. - H. ...

1. Upon the death of a client, the provider shall act accordingly upon any burial policies of the client.

2. ...

3. If a valid account agreement has been executed by the client, the provider shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death.

H.4. - I. ...

J. Burial Policies. Upon discharge of a client, the provider shall release any and all burial policies to the client or his/her legal or responsible representative.

K. Life Insurance Policies. An HCBS provider and/or its employee(s), either contracted or staff, shall not purchase a life insurance policy on an HCBS client and designate the provider and/or its employee(s) as the beneficiary of the policy.

L. The provisions of this section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

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 38:82 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2515 (December 2017).

**§5061. Quality Enhancement Plan**

A. An HCBS provider shall develop, implement and maintain a quality enhancement (QE) plan that:

1. ensures that the provider is in compliance with federal, state, and local laws;

2. meets the needs of the provider's clients;

3. is attaining the goals and objectives established by the provider;

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

5. improves individual client outcomes and individual client satisfaction;

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

a. monitor the effects of implemented changes; and

b. result in revisions to the action plan;

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

B. The QE plan shall include:

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

a. review and resolution of complaints;

b. review and resolution of incidents; and

c. incidents of abuse, neglect and exploitation;

2. a process to review and resolve individual client issues that are identified;

3. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above;

4. a process to correct problems that are identified through the program that actually or potentially affect the health and safety of the clients; and

5. a process of evaluation to identify or trigger further opportunities for improvement in identification of individual client care and service components.

C. The QE program shall hold bi-annual committee meetings to:

1. assess and choose which QE plan activities are necessary and set goals for the quarter;

2. evaluate the activities of the previous quarter; and

3. implement any changes that protect the clients from potential harm or injury.

D. The QE plan committee shall:

1. develop and implement the QE plan; and

2. report to the administrator any identified systemic problems.

E. The HCBS provider shall maintain documentation of the most recent 12 months of the QE plan.

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 38:83 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2515 (December 2017).

**§5063. Emergency Preparedness**

A. - A.9. ...

B. Providers shall ensure that each client has a documented individual plan in preparation for, and response to, emergencies and disasters and shall assist clients in identifying the specific resources available through family, friends, the neighborhood and the community.

C. Continuity of Operations. The provider shall have written disaster and emergency preparedness plans which are based on a risk assessment using an all hazards approach for both internal and external occurrences, developed and approved by the governing body and updated annually:

1. to maintain continuity of the provider's operations in preparation for, during and after an emergency or disaster;

2. to manage the consequences of all disasters or emergencies that disrupt the provider's ability to render care and treatment, or threaten the lives or safety of the clients; and

3. that are prepared in coordination with the provider's local and/or parish Office of Homeland Security and Emergency Preparedness (OHSEP) and include provisions for persons with disabilities.

D. The HCBS provider shall develop and implement policies and procedures based on the emergency plan, risk assessment, and communication plan which shall be reviewed and updated at least annually to maintain continuity of the agency's operations in preparation for, during and after an emergency or disaster. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the provider's ability to render care and treatment, or threatens the lives or safety of the clients.

1. At any time that the HCBS provider has an interruption in services or a change in the licensed location due to an emergency situation, the provider shall notify HSS no later than the next business day.

2. - 6. Repealed.

E. The provider shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency. The plan shall include, at a minimum:

1. provisions for the delivery of essential services to each client as identified in the individualized emergency plan for each client, whether the client is in a shelter or other location;

2. provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;

3. provisions for back-up staff;

4. the method that the provider will utilize in notifying the client's family or caregiver if the client is evacuated to another location either by the provider or with the assistance or knowledge of the provider. This notification shall include:

a. the date and approximate time that the provider or client is evacuating;

b. the place or location to which the client(s) is evacuating which includes the name, address and telephone numbers; and

c. a telephone number that the family or responsible representative may call for information regarding the provider's evacuation;

5. provisions for ensuring that sufficient supplies, medications, clothing and a copy of the individual service plan are sent with the client, if the client is evacuated; and

6. the procedure or methods that will be used to ensure that identification accompanies the individual. The identification shall include the following information:

a. current and active diagnoses;

b. medication(s), including dosages and times administered;

c. allergies;

d. special dietary needs or restrictions; and

e. next of kin, including contact information.

F. - H. ...

I. All agency employees, either contracted or staff, shall be trained in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for all personnel.

J. - J.5. ...

K. - K.7. Repealed.

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 38:83 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2516 (December 2017).

**Subchapter G. Adult Day Care Module**

**§5071. General Provisions**

A. ...

B. An ADC program shall provide services for 10 or more functionally impaired adults who are not related to the owner or operator of the HCBS provider.

1. For the purposes of this Section, "*functionally impaired adult*" shall be defined as individuals 17 years of age or older who are physically, mentally or socially impaired to a degree that requires supervision.

C. The following two programs shall be provided under the ADC module.

1. Day Habilitation Services

a. Day habilitation services include assistance with acquisition, retention or improvement in self-help, socialization, and adaptive skills that take place in a non-residential setting separate from the recipient's private residence or other residential living arrangement. Day habilitation services provide activities and environments designed to foster the acquisition of skills, appropriate behavior, greater independence and personal choice.

i. Day habilitation services are provided in a variety of community settings, (i.e. local recreation department, garden clubs, libraries, etc.) other than the recipient's residence and are not limited to a fixed-site facility.

b. Services are furnished to a client who is 17 years of age or older and has a developmental disability, or who is a functionally impaired adult, on a regularly scheduled basis during normal daytime working hours for one or more days per week, or as specified in the recipient's service plan.

c. Day habilitation services focus on enabling the recipient to attain or maintain his or her maximum functional level, and shall be coordinated with any physical, occupational, or speech therapies in the service plan. These services may also serve to reinforce skills or lessons taught in other settings.

2. Prevocational Services

a. Prevocational services prepare a recipient for paid employment or volunteer opportunities. Services include teaching such concepts as compliance, attendance, task completion, problem solving and safety. Services are not job-task oriented, but are aimed at a generalized result. These services are reflected in the recipient's service plan and are directed to habilitative (e.g. attention span, motor skills) rather than explicit employment objectives.

b. Individuals receiving prevocational services shall have an employment related goal as part of their individual service plan.

c. This service is not available to clients eligible to receive services under a program funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (IDEA).

D. When applying for the ADC module under the HCBS provider license, the provider shall indicate whether it is providing day habilitation, prevocational/employment-related services or both.

D.1. - E. Repealed.

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 38:85 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2517 (December 2017).

**§5073. Operational Requirements for ADC Facilities**

A. The client/staff ratio in an ADC facility shall be a minimum of one staff person per eight clients, unless additional staff coverage is needed to meet the needs of the client, as specified in the service plan.

B. - C. ...

1. If meals are prepared by the facility or contracted from an outside source, the following conditions shall be met:

a. menus shall be written in advance and shall provide for a variety of nutritional foods from which a client may choose;

1.b. - 3. ...

4. Dining areas shall be adequately equipped with tables, chairs, eating utensils and dishes designed to meet the functional needs of clients. Clients shall have choice of where and with whom to eat within the ADC facility.

C.5. - D.2. ...

3. Sufficient supervision/training shall be provided where potentially harmful materials such as cleaning solvents and/or detergents are used.

4. - 5. ...

6. Fire drills shall be performed at least once a quarter. Documentation of performance shall be maintained.

E. - E.8. ...

a. The ratio of bathrooms to number of clients shall meet the requirements in accordance with applicable state and/or federal laws, rules and regulations.

b. Individuals shall be ensured privacy when using bathroom facilities.

c. - 11. ...

12. The building in which the ADC is located shall meet the requirements of the OSFM in accordance with applicable state and federal laws, rules and regulations.

F. - F.1. ...

a. The provider shall maintain full financial records of clients' earnings if the facility pays the client.

b. ...

c. The provider shall have a current U.S. Department of Labor sub-minimum wage certificate if the provider pays sub-minimum wage.

2. ...

3. Clients shall be directly supervised when operating any type of power driven equipment such as lawn mowers or electrical saws, unless:

a. - b. ...

c. sufficient training is given to the recipient and the training is documented.

4. ...

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 38:85 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2517 (December 2017).

**Subchapter H. Family Support Module**

**§5075. General Provisions**

A. ...

B. Services covered by the family support module may include:

1. special equipment;
2. limited adaptive housing;
3. medical expenses and medications;
4. nutritional consultation and regime;
5. related transportation;
6. special clothing;
7. special therapies;
8. respite care;
9. dental care; and
10. family training and therapy.

C. - C.10. Repealed.

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 38:86 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2518 (December 2017).

**Subchapter I. Personal Care Attendant Module**

**§5079. General Provisions**

A. ...

B. Personal care attendant services may include:

1. - 1.i. ...

j. any non-complex medical task which can be delegated;

2. assistance and/or training in the performance of tasks in accordance with the plan of care and related to:

2.a. - 3. ...

4. support and assistance in developing relationships with neighbors and others in the community; and

5. ...

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 38:87 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2518 (December 2017).

**Subchapter J. Respite Care**

**§5083. General Provisions**

A. ...

B. Respite care may be provided as an in-home or center-based service. The services may be provided in the client's home or in a licensed respite center.

C. Providers of in-home respite care services must comply with:

1. all HCBS providers core licensing requirements;
2. PCA module specific requirements; and
3. the respite care services module in-home requirements.

D. Providers of center-based respite care services shall comply with:

1. ...
2. respite care services module in-home requirements; and
3. the respite care services module center-based requirements.

E. When applying for the respite care service module under the HCBS provider license, the provider shall indicate whether it is providing in-home respite care, center-based respite care or both.

E.1. - F. Repealed.

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 38:87 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2518 (December 2017).

**§5085. Operational Requirements for In-Home Respite Care**

A. - A.2. ...

B. In-home respite care service providers shall have sufficient administrative, support, professional and direct care staff to meet the needs of clients at all times.

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 38:88 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2518 (December 2017).

**§5087. Operational Requirements for Center-Based Respite Care**

A. - A.2. ...

a. The provider shall ensure that the client has an adequate supply of clothing, needed personal care supplies, and medications, if needed.

A.3. - B.1.a. ...

2. Arrangements for medical isolation shall be available. The provider shall inform the family to move the client to isolation when medically determined as necessary.

3. Medication shall be prescribed only by a licensed health care practitioner in accordance with the individual's professional licensing laws.

C. ...

1. Planning, preparation and serving of foods shall be in accordance with the nutritional, social, emotional and

medical needs of the clients. The menu shall include a minimum of three varied, nutritious and palatable meals a day plus nourishing snacks.

2. All milk and milk products used for drinking shall be Grade A and pasteurized.

3. There shall be no more than 14 hours between the last meal or snack offered on one day and the first meal offered of the following day.

4. - 5. Repealed.

D. - F.1. ....

2. If it has been determined either medically or legally that the best interests of the client necessitate restrictions on communications or visits, these restrictions shall be documented in the service plan.

F.3. - G.1. ...

2. All bedrooms shall be on or above street grade level and be outside rooms. Bedrooms shall accommodate no more than four residents. Bedrooms shall provide at least 60 square feet per person in multiple sleeping rooms and not less than 80 square feet in single rooms.

3. ...

4. There shall be separate and gender segregated sleeping rooms for adults and for adolescents. When possible, there should be individual sleeping rooms for clients whose behavior would be disruptive to other clients.

5. Appropriate furniture shall be provided including but not limited to, a chest of drawers, a table or desk, an individual closet with clothes racks and shelves accessible to the residents.

G.6. - H.7. ...

I. There shall be a designated space for dining. Dining room tables and chairs shall be adjusted in height to suit the ages and physical needs of the clients.

J. - K. ...

1. The facility shall comply with all applicable federal, state and local building codes, fire and safety laws, ordinances and regulations.

2. Secure railings shall be provided for flights of more than four steps and for all porches more than four feet from the ground.

3. Where clients under age two are in care, secure safety gates shall be provided at the head and foot of each flight of stairs accessible to these clients.

4. Before swimming pools are made available for client use, written documentation shall be received by LDH-OPH confirming that the pool meets the requirements of the Virginia Graeme Baker Pool and Spa Safety Act of 2007 or, in lieu of, written documentation confirming that the pool meets the requirements of ANSI/APSP-7 (2006 Edition) which is entitled the "American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading pools, Spas, Hot Tubs and Catch Basins."

a. ...

b. An individual, 18 years of age or older, shall be on duty when clients are swimming in ponds, lakes or pools where a lifeguard is not on duty. The facility shall have staff sufficient in number certified in water safety by the American Red Cross or other qualified certifying agency to meet the needs of the clients served.

c. The provider shall have written plans and procedures for water safety.

d. The provider shall have available water safety devices sufficient in number for clients served and staff trained in the proper usage of such devices.

5. Storage closets or chests containing medicine or poisons shall be kept securely locked.

6. Garden tools, knives and other potentially dangerous instruments shall be inaccessible to clients without supervision.

K.7. - L.4. ...

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 38:88 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2518 (December 2017).

**Subchapter K. Substitute Family Care Module**

**§5089. General Provisions**

A. - A.2. ...

B. Substitute family care services are delivered by a principal caregiver, in the caregiver's home, under the oversight and management of a licensed SFC provider.

1. The SFC caregiver is responsible for providing the client with a supportive family atmosphere in which the availability, quality and continuity of services are appropriate to the age, capabilities, health conditions and special needs of the individual.

2. The licensed SFC provider shall not be allowed to serve as the SFC caregiver.

C. Potential clients of the SFC program shall meet the following criteria:

1. have a developmental disability as defined in R.S. 28:451.1-455.2 of the Louisiana Developmental Disability Law or its successor statute;

2. be at least 18 years of age;

a. Repealed.

3. have an assessment and service plan pursuant to the requirements of the HCBS provider licensing rule.

a. The assessment and service plan shall assure that the individual's health, safety and welfare needs can be met in the SFC setting.

4. - 4.a. Repealed

D. SFC Caregiver Qualifications

1. An SFC caregiver shall be certified by the SFC provider before any clients are served. In order to be certified, the SFC caregiver applicant shall:

a. undergo a professional home study conducted by the provider;

b. participate in all required orientations, trainings, monitoring and corrective actions required by the SFC provider; and

c. meet all of the caregiver specific requirements of this Section.

2. The personal qualifications required for certification include:

a. residency. The caregiver shall reside in the state of Louisiana and shall provide SFC services in the caregiver's home. The caregiver's home shall be located in the state of Louisiana and in the region in which the SFC provider is licensed;

b. criminal record and background clearance. Members of the SFC caregiver's household shall not have

any felony convictions. Other persons approved to provide care or supervision of the SFC client for the SFC caregiver shall not have any felony convictions:

i. prior to certification, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall undergo a statewide criminal record background check conducted by the Louisiana State Police, or its authorized agent;

ii. annually thereafter, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall have criminal record background checks;

c. age. The SFC principal caregiver shall be at least 21 years of age. Maximum age of the SFC principal caregiver shall be relevant only as it affects his/her ability to provide for the SFC client as determined by the SFC provider through the home assessment. The record shall contain proof of age.

3. The SFC caregiver may be either single or married. Evidence of marital status shall be filed in the SFC provider's records and shall include a copy of legal documents adequate to verify marital status.

4. The SFC caregiver is not prohibited from employment outside the home or from conducting a business in the home provided that:

a. the SFC home shall not be licensed as another healthcare provider;

b. such employment or business activities do not interfere with the care of the client;

c. such employment or business activities do not interfere with the responsibilities of the SFC caregiver to the client;

d. a pre-approved, written plan for supervision of the participant which identifies adequate supervision for the participant is in place; and

e. the plan for supervision is signed by both the SFC caregiver and the administrator or designee of the SFC provider.

E. The SFC caregiver shall not be certified as a foster care parent(s) for the Department of Child and Family Services (DCFS) while serving as a caregiver for a licensed SFC provider.

1. The SFC provider, administrator or designee shall request confirmation from DCFS that the SFC caregiver applicant is not presently participating as a foster care parent and document this communication in the SFC provider's case record.

2. - 3.a. Repealed.

F. In addition to the discharge criteria in the core requirements, the client shall be discharged from the SFC program upon the client meeting any of the following criteria:

1. incarceration or placement under the jurisdiction of penal authorities or courts for more than 30 days;

a. - c. Repealed.

2. lives in or changes his/her residence to another region in Louisiana or another state;

a. - c. Repealed.

3. admission to an acute care hospital, rehabilitation hospital, intermediate care facility for persons with intellectual disabilities (ICF/ID) or nursing facility with the intent to stay longer than 90 consecutive days;

4. the client and/or his legally responsible party(s) fails to cooperate in the development or continuation of the service planning process or service delivery;

a. - e. Repealed.

5. a determination is made that the client's health and safety cannot be assured in the SFC setting; or

6. failure to participate in SFC services for 30 consecutive days for any reason other than admission to an acute care hospital, rehabilitation hospital, ICF/ID facility or nursing facility.

G. - H.6. Repealed.

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 38:89 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2519 (December 2017).

**§5090. Operational Requirements for Substitute Family Care Providers**

A. - A.1.a. ...

2. Within the first 90 days following the client's move into the home, the SFC provider shall provide and document training to the SFC caregiver(s) inclusive of the following:

a. - d. ...

3. Annually, the SFC provider shall provide the following training to the SFC caregiver:

a. six hours of training related to the client's needs and interests including the client's specific priorities and preferences; and

b. six hours of training on issues of health and safety such as the identification and reporting of allegations of abuse, neglect or exploitation and misappropriation of client's funds.

A.4. - B. ...

1. The SFC provider shall conduct no less than monthly face to face reviews of each SFC caregiver and/or household in order to:

B.1.a. - C. ...

1. 24-hour care and supervision, including provisions for:

a. a flexible routine that includes client's choices or preferences;

C.1.b. - D. ...

1. SFC providers shall ensure that the SFC caregiver complies with the following standards for client records that are maintained in the SFC's home.

a. - c. ...

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 38:90 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2520 (December 2017).

**§5091. Operational Requirements for Substitute Family Care Caregivers**

A. The SFC caregiver(s) shall provide environments that meet the needs of the clients.

B. The SFC caregiver's home shall be located within a 25 mile radius of community facilities, resources and

services such as medical care, schools, recreation facilities, churches and other community facilities.

C. The home of the SFC family shall not be used as lodging for any person(s) who is not subject to the prior approval certification process of the SFC family. The SFC family shall notify the administrator, or designee of the SFC provider, of any person(s) allowed to reside in the home following the initial certification.

1. ...

2. All persons residing with the SFC family, including temporary or on a non-permanent basis, shall undergo statewide criminal record background checks conducted by the Louisiana State Police, or its authorized agent.

C.3. - D. ...

E. The SFC caregiver shall have a stable income sufficient to meet routine expenses, independent of the payments for their substitute family care services, as demonstrated by a reasonable comparison between income and expenses conducted by the administrator or designee of the SFC provider upon initiation of services and as necessary thereafter.

F. The SFC caregiver shall have a plan that outlines in detail the supports to be provided. This plan shall be approved and updated as required and as necessary by the SFC provider. The SFC caregiver shall allow only SFC approved persons to provide care or supervision to the SFC client.

1. ...

a. identification of any person(s) who will supervise the participant on a routine basis which shall be prior approved by the administrator or designee of the SFC agency provider;

F.1.b. - H. ...

1. The home of the SFC caregiver shall be safe and in good repair, comparable to other family homes in the neighborhood. The home and its exterior shall be free from materials and objects which constitute a potential for danger to the individual(s) who reside in the home.

2. SFC homes featuring either a swimming or wading pool shall ensure that safety precautions prevent unsupervised accessibility to clients.

3. - 3.f. ...

g. household first aid supplies to treat minor injuries;

h. plumbing in functional working order and availability of a method to maintain safe water temperatures for bathing; and

3.i. - 5. ...

a. There shall be a bedroom for each client with at least 80 square feet exclusive of closets, vestibules and bathrooms and equipped with a door, that locks from the inside for privacy unless contraindicated by any condition of the client. Clients shall be afforded privacy within their sleeping units.

H.5.a.i. - I.2.c. ...

d. documentation of a driver's license status inquiry report on each family member who will be transporting the client.

3. If the client(s) are authorized to operate the family vehicle, liability insurance coverage specific to the client(s) use shall be maintained at all times in accordance with state law.

J. - J.1.k. ...

i. Repealed.

1.l. - 3.c. ...

K. - K.2. Repealed.

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 38:91 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2520 (December 2017).

**Subchapter L. Supervised Independent Living Module**

**§5093. General Provisions**

A. - B. ...

C. Clients receiving SIL services shall be at least 18 years of age. An SIL living situation is created when an SIL client utilizes an apartment, house or other single living unit as his place of residence.

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 38:93 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2521 (December 2017).

**§5094. Operational Requirements for the Supervised Independent Living Module**

A. A provider shall ensure that the living situation is freely selected by the client from among non-disability specific settings. An SIL residence may be owned or leased by either the provider or the client. At the expense of the owner or lessee, a provider shall ensure that the living situation shall be:

1. - 4. ...

5. a living situation that affords the client's individual privacy, including the ability to lock entrance doors;

6. - 9. ...

10. equipped with an efficiency bedroom space or a separate private bedroom with a door that locks from the inside for privacy, if not contraindicated by a condition of the client residing in the room:

10.a. - 15.g. ...

16. equipped with functional smoke detectors and a fire extinguisher.

B. A provider shall ensure that any client placed in the living situation has:

1. ...

2. access to transportation;

3. access to any services in the client's approved ISP; and

4. privacy within their living and sleeping units.

C. The department shall have the right to inspect the SIL and client's living situation as deemed necessary.

D. - E. ...

1. For purposes of this Section, a supervisor is defined as a person, so designated by the provider agency, due to experience and expertise relating to needs of clients with developmental disabilities.

2. A supervisor shall have a minimum of two documented contacts per week with the client. The weekly contacts may be made by telephone, adaptive communication technology or other alternative means of communication. There shall be documentation of what was discussed with the client and any outcomes.

a. The supervisor shall have a minimum of one face-to-face contact per month with the client in the client's home. The frequency of the face-to-face contacts shall be based on the client's needs. There shall be documentation of what was discussed with the client and any outcomes.

2.b. - 3....

F. In addition to the core licensing requirements, the SIL provider shall:

1. - 2. ...

3. assure that bill payment is completed timely in accordance with the individual service plan, if applicable; and

F.4. - G.8. ...

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 38:93 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2521 (December 2017).

**§5095. Supervised Independent Living Shared Living Conversion Process**

A. ...

B. Only an existing ICF/ID group or community home with up to eight beds may voluntarily and permanently close its home and its related licensed, Medicaid certified and enrolled ICF/ID beds to convert to new community-based waiver opportunities (slots) for up to six persons in shared living model or in combination with other ROW residential options. These shared living models will be located in the community.

1. ...

C. The LDH Office for Citizens with Developmental Disabilities (OCDD) shall approve all individuals who may be admitted to live in and to receive services in an SIL shared living conversion model.

D. The ICF/ID provider who wishes to convert an ICF/ID to an SIL via the shared living conversion model shall be approved by OCDD and shall be licensed by HSS prior to providing services in this setting, and prior to accepting any ROW participant or applicant for residential or any other developmental disability service(s).

E. An ICF/ID provider who elects to convert to an SIL via the shared living conversion model may convert to one or more conversion models, provided that the total number of SIL shared living conversion slots; beds shall not exceed the number of Medicaid facility need review bed approvals of the ICFs/ID so converted.

1. The conversion of an ICFs/ID to an SIL via the shared living conversion process may be granted only for the number of beds specified in the applicant's SIL shared living conversion model application to OCDD.

2. ...

3. Any remaining Medicaid facility need review bed approvals associated with an ICF/ID that is being converted cannot be sold or transferred and are automatically considered terminated.

F. An ICF/ID provider who elects to convert to an SIL via the shared living conversion process shall obtain the approval of all of the residents of the home(s) (or the responsible parties for these residents) regarding the conversion of the ICF/ID prior to beginning the process of conversion.

G. Application Process

1. The ICF/ID owner or governing board must sign a conversion agreement with OCDD regarding the specific beds to be converted and submit a plan for the conversion of these beds into ROW shared living or other ROW residential waiver opportunities, along with a copy of the corresponding and current ICF/ID license(s) issued by HSS.

a. This conversion plan shall be approved and signed by OCDD and the owner or signatory of the governing board prior to the submittal of a HCBS provider, SIL module licensing application to LDH-HSS.

2. A licensed and certified ICF/ID provider who elects to convert an ICF/ID to an SIL via the shared living conversion process shall submit a licensing application for a HCBS provider license, SIL module. The ICF/ID applicant seeking to convert shall submit the following information with his licensing application:

a. - b. ...

i. that the license to operate an ICF/ID will be voluntarily surrendered upon successfully completing an initial licensing survey and becoming licensed as an SIL via the shared living conversion process; and

ii. that the ICF/ID Medicaid facility need review bed approvals will be terminated upon the satisfactory review of the conversion as determined by OCDD, pursuant to its 90 day post conversion site visit; and

3. ...

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 38:94 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2522 (December 2017).

**Subchapter M. Supported Employment Module**

**§5099. General Provisions**

A. ...

1. return all telephone calls from clients within one business day, other than during working hours;

2. - 3. ...

4. have licensed nursing services staff and direct care staff;

A.5. - B. ...

C. The assessment of needs shall be done prior to placement of the client on a job site. A Medicaid HCBS comprehensive assessment approved by an LDH program office for a Medicaid recipient shall not substitute for the assessment of needs. A comprehensive plan of care approved by the department for Medicaid or waiver reimbursement shall not substitute for the ISP.

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 38:95 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2522 (December 2017).

**Chapter 51. Home and Community-Based Services Providers**

**Subchapter A. Monitored In-Home Caregiving Module**

**§5101. General Provisions**

A. - A.2. ...

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.ii 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 LDH-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 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2522 (December 2017).

**§5103. Staffing Requirements, Qualifications, and Duties**

A. - E.3. ...

F. Care Manager Responsibilities. The following responsibilities of the care manager for the MIHC module shall substitute for the requirements in §5055.L and §5055.M. The responsibilities of the MIHC care manager shall include:

F.1. - G.2.a. ...

b. have a statewide criminal background check conducted by the Louisiana State Police, or its authorized agent, in accordance with the applicable state laws;

c. ...

d. be at least 18 years of age;

G.2.e. - H.5. ...

6. providing ongoing supervision of health-related activities, including, but not limited to:

a. reminding the client to take prescribed medications;

b. - h.v. ...

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 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2523 (December 2017).

**§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.H, §5055.I, and §5055.J.

A.1. - C.5. ...

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 41:2641 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2523 (December 2017).

Rebekah E. Gee MD, MPH
Secretary

1712#029

**RULE**

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

Home and Community-Based Services Waivers
Children's Choice Waiver
Allocation of Waiver Opportunities
(LAC 50:XXI.Chapter 111, 11303,
Chapters 115-119, and 12301)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.Chapters 111-117, §11905, and §12301 and repealed §§11901 and 11903 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.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the Children's Choice Waiver to clarify the provisions of the waiver in order to ensure compliance with federal regulations, and to remove applied behavior analysis (ABA) as a covered service because ABA services are now covered under the Medicaid State Plan (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities determined that it was necessary to amend the provisions governing the Children's Choice Waiver in order to: 1) implement a tiered waiver allocation process which establishes one request for services registry for all OCDD waivers and is centered on needs-based assessments; and 2) increase the age of the participant to 21.

**Title 50**
**PUBLIC HEALTH—MEDICAL ASSISTANCE**
**Part XXI. Home and Community-Based Services Waivers**
**Subpart 9. Children's Choice**

**Chapter 111. General Provisions**

**§11101. Introduction**

A. The Children's Choice (CC) Waiver is a home and community-based services (HCBS) program that offers supplemental support to individuals with intellectual/developmental disabilities (IDD) who currently live in the community or who will leave an institution to return to the community.

B. The Children's Choice Waiver is an option offered to individuals who have been determined eligible for developmental disability services and are on the intellectual/developmental disabilities request for services registry (IDDRFSR) hereafter referred to as "the registry" or as identified in §11105 or §11107.

C. Children's Choice Waiver participants are eligible for all medically necessary Medicaid services in addition to Children's Choice Waiver services.

D. The number of participants in the Children's Choice Waiver is contingent upon available funding.

AUTHORITY NOTE: Promulgated in 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 26:2793 (December 2000), repromulgated for LAC, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1891 (September 2009), LR 39:2497 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2523 (December 2017).

**§11103. Participant Qualifications and Admissions Criteria**

A. The Children's Choice Waiver is available to individuals who:

1. are from birth through age 20;

2. ...

3. are on the registry unless otherwise specified in §11105 and §11107;

4. ...

5. meet the requirements for an intermediate care facility for persons with intellectual/developmental disabilities (ICF/ID) level of care, which requires active treatment of a developmental disability under the supervision of a qualified developmental disability professional;

A.6. - B. ...

C. Participants who are currently receiving Children's Choice Waiver services who reach their eighteenth birthday and remain enrolled in school may continue receiving Children's Choice Waiver services until their twenty-first birthday at which time they will transition to the most appropriate OCDD adult waiver as long as they remain eligible for waiver services.

D. Participants who are currently receiving Children's Choice Waiver services and reach their eighteenth birthday and choose to no longer attend school may transition to a Supports Waiver anytime between their eighteenth birthday and their twenty-first birthday based on a person-centered planning process.

1. Participants who transition to a Supports Waiver will continue receiving Supports Waiver services after their twenty-first birthday as long as they remain eligible for waiver services.

2. Children's Choice Waiver recipients who reach their twenty-first birthday will transfer into the most appropriate OCDD adult waiver as long as they remain eligible for waiver services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 39:2498 (September 2013), amended by the Department of Health, Bureaus of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2524 (December 2017).

**§11104. Admission Denial or Discharge Criteria**

A. Individuals shall be denied admission to or discharged from the Children's Choice Waiver if one of the following criteria is met:

1. ...

2. the individual does not meet the requirements for ICF/ID level of care;

3. - 4. ...

5. the participant is admitted to an ICF/ID or nursing facility with the intent to stay and not to return to waiver services:

a. ...

b. the participant will be discharged from the waiver on the ninety-first day if the participant is still in the ICF/ID or nursing facility;

6. - 7. ...

8. - 8.c. Repealed.

B. Recipients of the Children's Choice Waiver who reach their twenty-first birthday will transfer to the most appropriate OCDD adult waiver as long as they remain eligible for waiver services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2498 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2524 (December 2017).

**§11105. Money Follows the Person Rebalancing Demonstration**

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration program awarded by the Centers for Medicare and Medicaid Services to the department. The demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services. The MFP rebalancing demonstration will stop allocation of opportunities when the demonstration expires.

1. ...

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

1. Individuals with a developmental disability must:

a. be from birth through 20 years of age;

1.b. - 2. ...

C. Individuals who participate in the demonstration are not required to have a protected request date on the registry.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended by Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2524 (December 2017).

**§11107. Allocation of Waiver Opportunities**

A. The intellectual/developmental disabilities (I/DD) request for services registry, hereafter referred to as "the registry," shall be used to identify individuals with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity.

1. - 1.b. Repealed.

B. Individuals who are found eligible for developmental disabilities services according to the *OCDD System Entry Policy*, and who request waiver services will be added to the registry. The request for services registry is arranged by the

urgency of need and date of application for developmentally disabled (DD) waiver services.

1. - 1.b. Repealed.

C. Children's Choice Waiver opportunities shall be offered to individuals under the age of 21 who are on the registry, have the highest level of need and the earliest registry date. These individuals shall be notified in writing when a funded Children's Choice Waiver opportunity is available and that he/she is next in line for a Children's Choice Waiver slot except for allocations to the specific targeted groups cited as follows.

1. Money Follows the Person Rebalancing Demonstration Waiver opportunities which are allocated to demonstration participants only. The MFP Rebalancing demonstration will stop allocation of opportunities when the Demonstration expires. An additional 20 Children's Choice Waiver opportunities shall be created for the MFP Rebalancing Demonstration program and must only be filled by a demonstration participant. No alternate may utilize an MFP Rebalancing Demonstration opportunity.

a. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed, the opportunity will be returned to the MFP Rebalancing Demonstration pool and an offer will be made based upon the approved program guidelines until such time as the demonstration expires.

1.b. - 6. Repealed.

D. The Office for Citizens with Developmental Disabilities (OCDD) has the responsibility to monitor the utilization of Children's Choice Waiver opportunities. At the discretion of the OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of individuals with developmental disabilities.

E. Funded opportunities will only be allocated to individuals who successfully complete the financial eligibility and medical certification process required for waiver certification.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 40:539, 540 (March 2014), LR 41: 125 (January 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2524 (December 2017).

**Chapter 113. Service**

**§11303. Service Definitions**

A. The services in this §11303 are included in the service package for the Children's Choice Waiver. All services must be included on the approved plan of care which prior authorizes all services.

A.1. - N.4.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 36:324 (February 2010), LR 39:2498 (September 2013), LR 40:67 (January 2014), LR 41:126 (January 2015), amended by Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2525 (December 2017).

**Chapter 115. Provider Participation Requirements**

**Subchapter B. Provider Requirements**

**§11521. General Requirements for Medicaid Enrollment**

A. ...

1. The provider must meet all the requirements for licensure as established by state laws and rules promulgated by the Department of Health (LDH) or have a current, valid license or certification from the appropriate governing board for that profession.

2. - 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, Office of the Secretary, Bureau of Health Services Financing, LR 27: 310 (March 2001), repromulgated for LAC, LR 28:1984 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2525 (December 2017).

**§11523. Enrollment**

A. ...

B. Providers shall attend all mandated meetings and training sessions as directed by OCDD as a condition of enrollment and continued participation as waiver providers. Attendance at a provider enrollment orientation shall be required prior to enrollment as a Medicaid provider of services. The frequency of the provider enrollment orientations shall be determined by LDH Health Standards Section.

C. A separate provider enrollment packet must be completed for each site in each LDH administrative region where the agency will provide services.

D. Participant case records and billing records shall be housed at the site in LDH administrative region where the participant resides.

E. - F. ...

G. Providers shall participate in initial training for prior authorization and data collection. This initial training and any LDH scheduled subsequent training addressing program changes is to be provided at no cost to the agency. Repeat training must be paid for by the requesting agency.

H. Providers shall develop a quality improvement plan which must be submitted for approval within 60 days after LDH training. Self-assessments are due six months after approval of the plan and yearly thereafter.

I. - N. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 27:310 (March 2001), repromulgated for LAC by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1984 (September 2002), amended LR 28:2533 (December 2002), repromulgated LR 29:38 (January 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), amended by the

Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2525 (December 2017).

**§11525. Case Management Providers**

A. ...

1. Providers of case management services for the Children's Choice program must have a contract with LDH to provide services to waiver participants.

2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:310 (March 2001), repromulgated for LAC, LR 28:1985 (September 2002), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2526 (December 2017).

**§11527. Direct Service Providers**

A. ...

1. The provider must be licensed by LDH as a home and community-based services provider and meet the module specific requirements for the services being provided.

2. Direct service providers must provide, at a minimum, family support services, crisis support services and subcontract services for center-based respite, family training, environmental adaptations and specialized medical equipment and supplies.

3. The following services may either be provided directly by the direct service provider or by written agreement (subcontract) with other agents; and the actual provider of the service, whether it is the direct service provider or a subcontracted agent, shall meet the following licensure or other qualifications.

a. Center-based respite must be provided by a facility licensed by LDH and meet all module specific requirements for the service.

3.b. - 5. ...

6. Agencies must provide services consistent with the personal outcomes identified by the participant and his/her family.

7. All personnel who are at a supervisory level must have a minimum of one year verifiable work experience in planning and providing direct services to people with intellectual/developmental disabilities.

8. - 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, Office of the Secretary, Bureau of Health Services Financing, LR 27: 310 (March 2001), repromulgated for LAC, LR 28:1985 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), LR 41:127 (January 2015), repromulgated LR 41:538 (March 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2526 (December 2017).

**Chapter 117. Crisis Provisions**

**§11701. Participation in Children's Choice**

A. Children's Choice Waiver participants who experience a crisis that increases the need for paid supports to a level that cannot be accommodated within the service cap specified in §11301.A on waiver expenditures, may request consideration for a crisis designation. A *crisis* is defined as a catastrophic change in circumstances rendering the natural and community support system unable to provide for the health and welfare of the participant at the level of benefits offered under Children's Choice. The procedure in this Chapter has been developed to address these situations.

AUTHORITY NOTE: Promulgated in 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 27:1015 (July 2001), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2502 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2526 (December 2017).

**§11703. Crisis Designation Criteria**

A. In order to be considered a crisis, one of the following circumstances must exist:

1. - 2. ...

3. the participant is committed to the custody of LDH by the court; or

4. ...

5. the participant's condition deteriorates to the point when the plan of care is inadequate.

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 of the Secretary, Bureau of Health Services Financing, LR 27:1015 (July 2001), repromulgated for LAC, LR 28:1986 (September 2002), amended LR 29:704 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), LR 41:128 (January 2015, amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2526 (December 2017).

**§11705. Crisis Extension Provisions**

A. Additional services (crisis support) outside of the waiver cap amount shall be approved by the OCDD state office. Crisis designation is time-limited, depending on the anticipated duration of the causative event. Each request for crisis designation may be approved for a maximum of three months.

B. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:1015 (July 2001), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2526 (December 2017).

**Chapter 119. Noncrisis Provisions**

**§11901. General Provisions**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1465 (June 2002), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), LR 41:128 (January 2015), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2527 (December 2017).

**§11903. Good Cause**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1465 (June 2002), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2527 (December 2017).

**§11905. Determination Responsibilities and Appeals**

A. The LGE shall have the responsibility for making the determinations as to the matters set forth in this Chapter 119. Persons who have elected or whose legal representatives have elected that they receive services under the Children's Choice Waiver have the right to appeal any determination of the department as to matters set forth in this Chapter 119, under the regulations and procedures applicable to Medicaid fair hearings.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1987 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2504 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2527 (December 2017).

**Chapter 123. Self-Direction Initiative**

**§12301. Self-Direction Service Delivery Option**

A. ...

B. Participant Responsibilities. Waiver participants choosing the self-directed service delivery option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is under 18 years of age or is unable to make decisions independently, the participant must have an authorized representative who understands the rights, risks and responsibilities of managing his/her care and supports within the participant's individual budget. The employer must be at least 18 years of age. Responsibilities of the participant or authorized representative include:

1. completion of mandatory trainings, including the rights and responsibilities of managing services, supports and individual budgets;

2. ...

a. adhering to the health and welfare safeguards identified by the team, including the application of a comprehensive monitoring strategy and risk assessment and management systems;

3. participation in the development and management of the approved budget:

a. this annual budget is determined by the recommended service hours listed in the participant's plan of care to meet his/her needs; and

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

c. Repealed.

4. all services rendered shall be prior approved and in accordance with the plan of care; and

5. all services must be documented in service notes, which describes the services rendered and progress towards the participant's personal outcomes and plan of care.

C. ...

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

2. - 2.d.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2504 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2527 (December 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1712#030

**RULE**

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

Home and Community-Based Services Waivers
New Opportunities Waiver
Allocation of Waiver Opportunities
(LAC 50:XXI.Chapter 137)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.Chapter 137 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 137. General Provisions
### §13703. Participant Qualifications and Admissions Criteria

A. In order to qualify for a New Opportunities Waiver (NOW), an individual must be 21 years of age or older and meet all of the following criteria:

1. have an intellectual and/or developmental disability as specified in R.S. 28:451.2;

2. be deemed eligible for developmental disability services and be on the intellectual/developmental disabilities (IDD) request for services registry (RFSR), unless otherwise specified through programmatic allocation in §13707;

3. - 5. ...

6. have justification, based on a uniform needs-based assessment and a person-centered planning discussion that the NOW is the only OCDD waiver that will meet the needs of the individual;

7. ...

8. be a citizen of the United States or a qualified immigrant.

B. Individuals under the age of 21 who receive NOW services prior to promulgation of this final Rule will be grandfathered-in to the NOW program. Individuals under the age of 21 who are transitioning to NOW services within 90 days of promulgation of this final Rule will retain their NOW offer and be allowed to transition to the NOW program.

C. Individuals age 18 through 20 may be offered a funded NOW opportunity if the results of the uniform needs-based assessment and person-centered planning discussion determine that the NOW is the most appropriate waiver. These offers must be approved by the OCDD assistant secretary/designee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (June 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:96 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2528 (December 2017).

### §13704. Needs-Based Assessment

A. A uniform needs-based assessment in conjunction with person-centered planning is utilized in the service planning process for the individuals receiving or participating in an OCDD waiver. The results of this assessment activity shall be utilized to determine which OCDD waiver will be offered to the individual during the initial plan of care process.

1. The participant or his/her representative may request a reconsideration and present supporting documentation if he/she disagrees with the specific OCDD waiver offered as a result of the needs based assessment and person-centered planning process. If the participant disagrees with the reconsideration decision, he/she may request a fair hearing through the formal appeals process.

2. - 4. Repealed.

B. The needs-based assessment instrument(s) is designed to evaluate the practical support requirements of individuals with developmental disabilities in daily living, medical and behavioral areas, including:

1. home living;
2. community living;
3. lifelong learning;
4. employment;
5. health and safety;
6. social activities; and
7. protection and advocacy.

C. The needs-based assessment instrument(s) is also used to evaluate the individual's support needs based on information and data obtained from four areas of the person's life, which includes:

1. support needs measurements including:
   a. material support;
   b. vision related supports;
   c. hearing related supports;
   d. supports for communicating needs;
   e. positive behavior supports;
   f. physicians supports;
   g. professional supports (e.g., registered nurse, physical therapist, occupational therapist, etc.); and
   h. stress and risk factors;
2. living arrangements and program participation including:
   a. people living in the home;
   b. natural supports in the home;
   c. living environments; and
   d. supports and service providers;
3. medical and diagnostic information findings including:
   a. diagnoses;
   b. medications and dosages; and
   c. need for relief from pain or illness; and
4. personal satisfaction reports including:
   a. agency supports provided at home;
   b. work or day programs;
   c. living environment;
   d. family relationships; and
   e. social relationships.

D. - D.4.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, Bureau of Health Service Financing and the Office for Citizens with Developmental Disabilities, LR 36:65 (January 2010), amended LR 40:69 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2528 (December 2017).

### §13706. Resource Allocation

A. The resource allocation model shall be used to assign service units based on the findings of the needs-based assessment and person-centered planning discussion for individuals who will be offered or are currently receiving

New Opportunities Waiver services. Within the resource allocation model, there is a determination of an acuity level for individual and family support (IFS) services.

1. The participant or his/her representative may request a reconsideration and present supporting documentation if he/she disagrees with the amount of assigned IFS service units. If the participant disagrees with the reconsideration decision, he/she may request a fair hearing through the formal appeals process.

2. Implementation of the resource allocation model was phased-in for the allocation of new NOW opportunities and renewal of existing NOW opportunities beginning July 1, 2009.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Service Financing and the Office for Citizens with Developmental Disabilities, LR 43:2528 (December 2017).

**§13707. Programmatic Allocation of Waiver Opportunities**

A. The intellectual/developmental disabilities request for services registry, hereafter referred to as "the registry," shall be used to identify persons with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity.

B. Individuals who are found eligible for developmental disabilities services using standardized tools, and who request waiver services will be added to the registry. The request for services registry (RFSR) is arranged by the urgency of need and date of application for developmentally disabled (DD) waiver services.

C. Funded OCDD waiver opportunities will be offered based on the following priority groups:

1. individuals living at Pinecrest Supports and Services Center or in a publicly-operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement, or their alternates. *Alternates* are defined as individuals living in a private ICF-ID who will give up the private ICF-ID bed to an individual living at Pinecrest or to an individual who was living in a publicly-operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement. Individuals requesting to transition from either facility listed above are awarded the appropriate waiver when one is requested, and their health and safety can be assured in an OCDD home and community-based waiver program:

a. the bed being vacated by the alternate in the private ICF-ID must be reserved for 14 days for the placement of a person being discharged from a publicly-operated facility. The person's discharge from a publicly-operated facility and his/her subsequent placement in a private ICF-ID is to occur as close as possible to the actual discharge of the alternate from the private ICF-ID and is not to exceed 14 days from the date of the alternate's discharge and certification for the waiver. The bed may be held vacant beyond the 14 days with the concurrence of the private ICF-ID provider;

b. the funded waiver opportunity will be reserved for a period not to exceed 120 days; however, this 120-day period may be extended as needed;

2. individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment.

3. - 8. Repealed.

D. ...

E. Funded waiver opportunities will only be allocated to individuals who successfully complete the financial and medical eligibility process required for waiver certification.

AUTHORITY NOTE: Promulgated in 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, Office for Citizens with Developmental Disabilities, LR 31:2900 (November 2005), amended LR 33:2440 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:3526 (December 2011), LR 40:70 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2529 (December 2017).

**§13709. Emergency Opportunities**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 31:2901 (November 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:71 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:1520 (September 2016), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2529 (December 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1712#031

## RULE

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

Home and Community-Based Services Waivers
Residential Options Waiver
Allocation of Waiver Opportunities
(LAC 50:XXI.16105, 16107, and 16901)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.16105, §16107, and §16901 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 161. General Provisions
### §16105. Participant Qualifications

A. In order to qualify for Residential Options Waiver (ROW), an individual must be 21 years of age or older and meet all of the following criteria:

1. have an intellectual and/or developmental disability as specified in R.S. 28:451.2;

2. be determined eligible through the developmental disabilities entry process;

3. be on the intellectual/developmental disabilities (IDD) request for services registry (RFSR), unless otherwise specified through programmatic allocation in §16107;

4. 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;

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

6. have justification, based on a uniform needs-based assessment and a person-centered planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual;

7. be a resident of Louisiana; and

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

B. Individuals under the age of 21 who receive ROW services prior to promulgation of this final Rule will be grandfathered-in to the ROW program. Individuals under the age of 21 who are in the process of being certified into the ROW prior to the promulgation of this final Rule will retain their ROW offer and be allowed to transition to the ROW program.

C. Individuals age 18 through 20 may be offered a funded ROW opportunity if the results of the uniform needs-based assessment and person-centered planning discussion determine that the ROW is the most appropriate waiver. These offers must be approved by the OCDD assistant secretary/designee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, 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 41:2155 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017).

### §16107. Programmatic Allocation of Waiver Opportunities

A. The intellectual/developmental disabilities request for services registry, hereafter referred to as "the registry," shall be used to identify persons with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity. Individuals who are found eligible for developmental disabilities services using standardized tools, and who request waiver services will be added to the registry. The request for services registry (RFSR) is arranged by urgency of need and date of application for developmentally disabled (DD) waiver services, except for the priority groups listed in B.1-4 of this Section.

1. - 3. Repealed.

B. Funded OCDD waiver opportunities will be offered based on the following priority groups:

1. Individuals with intellectual and developmental disabilities (I/DD) who have a statement of approval (SOA) through OCDD, and who currently receive services via the Office of Aging and Adult Services (OAAS) Community Choices Waiver (CCW) or Adult Day Health Care (ADHC) Waiver programs, shall be a priority group to allow for an one time transition into the ROW upon promulgation of this final Rule.

2. Individuals living at Pinecrest Supports and Services Center or in a publicly operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement, or their alternates. Alternates are defined as individuals living in a private ICF-ID who will give up the private ICF-ID bed to an individual living at Pinecrest or to an individual who was living in a publicly operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement. Individuals requesting to transition from either facility listed above are awarded the appropriate waiver when one is requested, and their health and safety can be assured in an OCDD home and community-based waiver program.

a. - b.vii. Repealed.

3. Individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment.

a. - e. Repealed.

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. - 7. Repealed.

C. ...

D. 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 41:2155 (October 2015), LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017).

### Chapter 169. Reimbursement
### §16901. Unit of Reimbursement

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 and reimbursement shall not be made for less than one quarter hour of service. This covers both the service provision and administrative costs for these services:

1. - 5.f. ...

6. supported employment;
   a. individual placement; and
   b. micro-enterprise; and
7. adult day health care.
7.a. - 8. Repealed.

EXCEPTION: The reimbursement for support coordination shall be at a fixed monthly rate and in accordance with the terms of the established contract.

B. - J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2168, 2170 (October 2015), LR 42:63 (January 2016), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1712#032

## RULE

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

Home and Community-Based Services Waivers
Supports Waiver
Allocation of Waiver Opportunities
(LAC 50:XXI.5301, 5501, 5505, 5701, and 5901)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.5301, §5501, §5701, and §5901 and adopted §5505 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 53. General Provisions**
**§5301. Purpose**

A. - A.3. ...

B. Allocation of Waiver Opportunities. The intellectual/developmental disabilities request for services registry, hereafter referred to as "the registry," shall be used to identify persons with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity.

1. Individuals who are found eligible for developmental disabilities services using standardized tools, and who request waiver services will be added to the registry.

2. The request for services registry (RFSR) is arranged by the urgency of need and date of application for developmentally disabled (DD) waiver services.

3. Funded OCDD waiver opportunities will be offered based on the following two priority groups.

a. Individuals living at Pinecrest Supports and Services Center or in a publicly operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement, or their alternates. Alternates are defined as individuals living in a private ICF-ID who will give up the private ICF-DD bed to an individual living at Pinecrest or to an individual who was living in a publicly operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement. Individuals requesting to transition from either facility listed above are awarded the appropriate waiver when one is requested, and their health and safety can be assured in an OCDD home and community-based waiver program.

i. The bed being vacated by the alternate in the private ICF-ID must be reserved for 14 days for the placement of a person being discharged from a publicly-operated facility. The person's discharge from a publicly-operated facility and his/her subsequent placement in a private ICF-ID is to occur as close as possible to the actual discharge of the alternate from the private ICF-ID and is not to exceed 14 days from the date of the alternate's discharge and certification for the waiver. The bed may be held vacant beyond the 14 days with the concurrence of the private ICF-ID provider.

ii. The funded waiver opportunity will be reserved for a period not to exceed 120 days. However, this 120-day period may be extended as needed.

b. Individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment.

C. The Office for Citizens with Development Disabilities has the responsibility to monitor the utilization of Supports Waiver 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.

D. Funded waiver opportunities will only be allocated to individuals who successfully complete the financial and medical eligibility process required for waiver certification.

AUTHORITY NOTE: Promulgated in 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, Office for Citizens with Developmental Disabilities, LR 32:1604 (September 2006), amended LR 40:2583 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2531 (December 2017).

**Chapter 55. Target Population**

**§5501. Participant Qualifications and Admissions Criteria**

A. - A.8. ...

B. - F. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1604 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2583 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2532 (December 2017).

**§5505. Needs-Based Assessment**

A. A uniform needs-based assessment in conjunction with person-centered planning is utilized in the service planning process for the individuals receiving or participating in an OCDD waiver. The results of this assessment activity shall be utilized to determine which OCDD waiver will be offered to the individual during the initial plan of care process.

1. The participant or his/her representative may request a reconsideration and present supporting documentation if he/she disagrees with the specific OCDD waiver offered as a result of the needs-based assessment and person-centered planning process. If the participant disagrees with the reconsideration decision, he/she may request a fair hearing through the formal appeals process.

B. The needs-based assessment instrument(s) is designed to evaluate the practical support requirements of individuals with developmental disabilities in daily living, medical and behavioral areas including:

1. home living;
2. community living;
3. lifelong learning;
4. employment;
5. health and safety;
6. social activities; and
7. protection and advocacy.

C. The needs-based assessment instrument(s) is also used to evaluate the individual's support needs based on information and data obtained from the following four areas of the person's life:

1. support needs scale measurements including:
   a. material supports;
   b. vision related supports;
   c. hearing related supports;
   d. supports for communicating needs;
   e. positive behavior supports;
   f. physicians supports;
   g. professional supports (e.g., registered nurse, physical therapist, occupational therapist, etc.); and
   h. stress and risk factors;
2. living arrangements and program participation including:
   a. people living in the home;
   b. natural supports in the home;
   c. living environments; and
   d. supports and service providers;
3. medical and diagnostic information findings including:
   a. diagnoses;
   b. medications and dosages; and
   c. need for relief from pain or illness;
4. personal satisfaction reports including:
   a. agency supports provided at home;
   b. work or day programs;
   c. living environment;
   d. family relationships; and
   e. social relationships.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2532 (December 2017).

**Chapter 57. Covered Services**

**§5701. Supported Employment Services**

A. - G.4. ...

H. Restrictions. Participants receiving individual supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided during the same service hours and cannot total more than five hours of services in the same day. Participants receiving group supported employment services may also receive prevocational or day habilitation services; however, these services cannot be provided in the same service day.

I. - J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1605 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2585 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2532 (December 2017).

**Chapter 59. Provider Participation**

**§5901. General Provisions**

A. - C.1. ...

2. Supported Employment Services. The provider must possess a valid certificate of compliance as a community rehabilitation provider (CRP) from Louisiana rehabilitation services or the certification and training as required per OCDD.

3. - 6. ...

AUTHORITY NOTE: Promulgated in 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, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, Office for Citizens with Developmental Disabilities, LR 40:2587 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2532 (December 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1712#033

## RULE

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

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Increase
(LAC 50:V.Chapter 9)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.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 V. Hospital Services**
**Subpart 1. Inpatient Hospital Services**
**Chapter 9. Non-Rural, Non-State Hospitals**
**Subchapter B. Reimbursement Methodology**

**§953. Acute Care Hospitals**

A. - U.1. ...

V. Effective for dates of service on or after January 1, 2018, the inpatient per diem rate paid to acute care hospitals shall be increased by indexing to 56 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Acute care hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 56 percent the January 1, 2017 small rural hospital rate shall not be increased.

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

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

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

**§955. Long-Term Hospitals**

A. - K. ...

L. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to long-term hospitals shall be increased by indexing to 42 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017. Long-term hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 42 percent of the January 1, 2017 small rural hospital rate shall not be increased.

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

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

**§959. Inpatient Psychiatric Hospital Services**

A. - M.1. ...

N. Effective for dates of service on or after January 1, 2018, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals, shall be increased by indexing to 31 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Psychiatric hospitals and units whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 31 percent of the January 1, 2017 small rural hospital rate shall not be increased.

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

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

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

**§961. Inpatient Rehabilitation Hospital Services**

A. Definitions

*Free-Standing Rehabilitation Hospital*—a non-rural, non-state hospital that is designated as a rehabilitation specialty hospital by Medicare.

B. Reimbursement Methodology

1. Effective for dates of service on or after January 1, 2018, the prospective per diem rate paid to non-rural, non-state free-standing rehabilitation hospitals shall be indexed to 36 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

2. Rehabilitation hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 36 percent of the January 1, 2017 small rural hospital rate shall not be increased.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2533 (December 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1712#034

## RULE

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

Medicaid Eligibility
Express Lane Eligibility
(LAC 50:III.1103)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:III.1103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**
**PUBLIC HEALTH—MEDICAL ASSISTANCE**
**Part III. Eligibility**
**Subpart 1. General Administration**
**Chapter 11. Express Lane Eligibility**
**§1103. Eligibility Determinations**

A. - A.1. ...

B. The department shall utilize eligibility findings from express lane agencies that administer the:

1. ...

2. Temporary Assistance for Needy Families;

3. state program funded under title IV-D (child support enforcement services/SES); and

4. Child Care and Development Block Grant Act of 1990.

5. - 7. Repealed.

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 36:1555 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2534 (December 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1712#035

## RULE

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

Outpatient Hospital Services
Non-Rural, Non-State Hospitals and
Children's Specialty Hospitals
Reimbursement Rate Increase
(LAC 50:V.5313, 5317, 5513, 5517,
5713, 5719, 6115 and 6119)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.5313, §5317 §5513, §5517, §5713, §5719, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**
**PUBLIC HEALTH—MEDICAL ASSISTANCE**
**Part V. Hospitals**
**Subpart 5. Outpatient Hospitals**
**Chapter 53. Outpatient Surgery**
**Subchapter B. Reimbursement Methodology**
**§5313. Non-Rural, Non-State Hospitals**

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

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

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

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

**§5317. Children's Specialty Hospitals**

A. - G.1. ...

H. Effective for dates of service on or after January 1, 2018, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in 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 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2534 (December 2017).

**Chapter 55. Clinic Services**
**Subchapter B. Reimbursement Methodology**
**§5513. Non-Rural, Non-State Hospitals**

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017).

**§5517. Children's Specialty Hospitals**

A. - G. ...

H. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

AUTHORITY NOTE: Promulgated in 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 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017).

**Chapter 57. Laboratory Services**
**Subchapter B. Reimbursement Methodology**
**§5713. Non-Rural, Non-State Hospitals**

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017).

**§5719. Children's Specialty Hospitals**

A. - G. ...

H. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

AUTHORITY NOTE: Promulgated in 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 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017).

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

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services, other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be increased by 4.82 percent of the rates in effect as of December 31, 2017.

1. Final reimbursement shall be 74.56 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017).

**§6119. Children's Specialty Hospitals**

A. - G.1. ...

H. Effective for dates of service on or after January 1, 2018, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services, other than rehabilitation services and outpatient hospital facility fees, shall be increased by 4.82 percent of the rates in effect as of December 31, 2017.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in 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 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1712#036

## RULE

### Department of State
### Board of Election Supervisors

Appeal of Merit Evaluation for the Registrar of Voters
(LAC 31:II.201)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:24(A)(6), R.S. 18:55, and R.S. 36:742, the State Board of Election Supervisors has adopted this Rule to provide for the appeal process for merit evaluations of the registrars of voters. During the 2016 Regular Legislative Session, Act 358 was enacted authorizing the State Board of Election Supervisors to conduct appeals of merit evaluations of registrars of voters.

**Title 31**
**ELECTIONS**
**Part II. Voter Registration**
**Chapter 2. Registrars of Voters**
**§201. Appeal of Merit Evaluation for the Registrar of Voters**

A. Submission of a Request for Appeal

1. A registrar of voters who does not receive an "excellent" rating on his or her annual merit evaluation may appeal that rating to the State Board of Election Supervisors.

2. The request for appeal shall be in writing and shall be postmarked or received by the human resources director in the Department of State, or the human resources director's designee, no later than January 31.

3. The request for appeal shall explain the reasons for the request and may provide supporting documentation.

4. If the request for appeal is received timely and contains the required explanation, the human resources director shall submit a notification of the request to the chairperson of the State Board of Elections Supervisors and to the director of registration within 15 days of receipt of the request for appeal. The notification of request for appeal shall include copies of the written request of the registrar of voters, the original annual merit evaluation, and any supporting documentation provided by the registrar of voters with his or her written request for appeal.

5. The Department of State grievance process shall not be used to review or reconsider evaluations or a procedural violation of the evaluation process.

B. The State Board of Election Supervisors

1. All written requests for appeal of annual merit evaluations that meet the requirements of Subsection A of this Section shall be considered by the State Board of Election Supervisors.

2. The State Board of Election Supervisors shall consist of eight members. The chairperson shall vote only to break a tie. The commissioner of elections shall not vote on the appeal of merit evaluation for the registrar of voters.

3. The chairperson shall convene a meeting of the State Board of Election Supervisors within 15 days of receipt of notification of the request for appeal to discuss the request and render a decision regarding the rating. The registrar of voters who submitted the request for appeal shall be given an opportunity to be heard at the meeting. The board may vote to uphold the "satisfactory" rating or to change the rating to "excellent".

4. The chairperson of the board shall give written notice of the board's decision to the affected registrar of voters, the director of registration, and the human resources director within 10 days.

C. The annual merit evaluation form, the written request for appeal of the registrar of voters, the written notice of the board's decision, and all supporting documentation shall be maintained in the official confidential personnel file of the registrar of voters on file in the Department of State's human resources office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Board of Election Supervisors, LR 43:2536 (December 2017).

Tom Schedler
Chairperson

1712#019

## RULE

### Department of State
### Elections Division

Merit Evaluations and Appeals for the Registrar of Voters
(LAC 31:II.Chapter 1)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:18, R.S. 18:55, R.S. 18:59, and R.S. 36:742, the Department of State has adopted amendments to the Rule to repeal the appeal process for merit evaluations of the registrars of voters. During the 2016 Regular Legislative Session, Act 358 was enacted authorizing the State Board of Election Supervisors to conduct appeals of merit evaluations of registrars of voters. In addition, the Department of State has amended merit evaluations for registrars of voters, chief deputies, and confidential assistants requiring a written explanation for those who do not receive an "excellent" rating based upon the recommendation of the House and Governmental Affairs Committee on March 4, 2015.

**Title 31**
**ELECTIONS**
**Part II. Voter Registration**
**Chapter 1. Registrars of Voters**
**§107. Merit Evaluation for the Registrar of Voters**

A. - C. …

D. A written explanation shall be given to any registrar of voters who does not receive an "excellent" rating.

AUTHORITY NOTE: Promulgated in according with R.S 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015), LR 43:2536 (December 2017).

**§108. Appeal of Merit Evaluation for the Registrar of Voters**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 41:759 (April 2015), repealed LR 43:2536 (December 2017).

**§109. Merit Evaluations of the Chief Deputy and Confidential Assistant**

A. - C. …

D. A written explanation shall be given to any chief deputy and confidential assistant who does not receive an "excellent" rating.

AUTHORITY NOTE: Promulgated in according with R.S 18:18, R.S. 18:59, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015), LR 43:2537 (December 2017).

Tom Schedler
Secretary of State

1712#020

## RULE

**Department of State**
**Office of the Secretary of State**

Non-Statutory Departmental Fees (LAC 4:I.Chapter 4)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 3:1447, R.S. 9:2782, R.S. 18:1293, R.S. 24:172, R.S. 24:173.1, R.S. 25:1282, R.S. 25:1284, R.S. 36:742, R.S. 40:1151.2, R.S. 43:19, R.S. 43:22, R.S. 44.1 et seq., R.S. 44:402, R.S. 44:405, R.S. 44:406, R.S. 44:408, R.S. 44:415, R.S. 44:420, R.S. 44:421, R.S. 49:222(A), R.S. 49:227, R.S. 49:228, Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, and Hague Convention of 29 May 1993 on Protection of Children and Co-Operation in Respect of Intercountry Adoption (22 CFR Part 96), the Department of State is proposing to adopt a non-statutory fee schedule for the Department of State. In addition, the Department of State has adopted rules and fees for the Louisiana State Archives Facilities.

**Title 4**
**ADMINISTRATION**
**Part I. General Provisions**

**Chapter 3. Fees**

**§303. Department of State Non-Statutory Fee Schedule**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 12:689 (October 1986), amended LR 29:372 (March 2003), repealed LR 43:2537 (December 2017).

**Chapter 4. Department of State**

**§401. Department of State Non-Statutory Fee Schedule**

A. The Department of State has established non-statutory fee schedules for various filings, services, and publications. If a product referred to in the schedules shown below has to be mailed, the cost for mailing said product would be added to the fee charged.

1. Department of State General Fees

| Item | Fee |
|---|---|
| Express Delivery (Cost Per Package) | Actual Cost |
| Non-Sufficient Funds Charge | $25.00 |
| Photocopies (Per Page) | $0.25 |
| Postage (Per Package) | Actual Cost |
| Public Records Request Fee (Certify Public Records) (Cost Per Certification Form) | $20.00 |
| Public Records Request Fee (Cost Per Page up to 8 ½" X 14") (Two-sided copy is charged as two pages) (Including Facsimile) | $0.25 |
| Public Records Request Fee (Cost Per Page for Printed Copy Greater Than 8 1/2" X 14") (Two-sided copy is charged as two pages) | Actual Cost |
| Public Records Request Fee (Cost Per Page for CD-ROM or USB Drive) | $0.25 |
| Public Records Request Fee (Cost Per Page for Electronic File Emailed) | $0.25 |

2. Business Services Division—Commercial

| Item | Fee |
|---|---|
| Corporations— | |
| Complete Corporation Information Computer Data Transfer | |
| Weekly, Per Initial Load | $2,500.00 |
| 50 Files at $200 Per Week | $10,000.00 |
| Total | $12,500.00 |
| Monthly, Per Initial Load | $2,500.00 |
| 11 Monthly Files at $400 | $4,400.00 |
| Total | $6,900.00 |
| Monthly Trade Names Only, 12 Monthly Files | |
| Total | $1,725.00 |
| Customized Computer List | $25 for 1st 40 Records Plus $0.01 Per Each Additional Record |
| Miscellaneous Corporations Fees— | |
| Agent for Service of Process | $15.00 |
| Certificate for Service of Process | $20.00 |
| Political Subdivision | $10.00 |
| Power of Attorney | $25.00 |
| Uniform Commercial Code— | |
| Direct Access Fee, Annual Subscription, Unlimited Usage | $400.00 |
| Monthly Updates Information Computer Data Transfer, Annual Fee, Monthly Updates Subscription | $6,900.00 |

3. Legal Division—Commissions

| Item | Fee |
|---|---|
| Adoptions (Apostilles or Authentication Certificates) (Cost Per Certificate) | $10.00 |
| Apostille Certificate (Cost Per Certificate) | $20.00 |
| Certificate of Authentication (Cost Per Certificate) | $20.00 |
| Certificate of a Pardon (Cost Per Certificate) | $20.00 |
| Certified Document (Executive Orders or Proclamations) (Per Document) | $20.00 |
| Replacement Commission Certificate | $20.00 |
| Replacement Identification Card | $5.00 |

4. Election Services—Publications

| Item | Fee |
|---|---|
| Bond Registration Certificate (Municipal Bonds) (Optional) | $10.00 |
| Certified Copy (In Addition to Per Page Fee) | $20.00 |
| Certified Copy of "Living Will" Declaration Registration | $20.00 |

| Item | Fee |
|---|---|
| "Living Will" Replacement of Identification Card | $5.00 |
| Public Officials Signature Registration Certificate | $10.00 |
| Publications | |
| Ballot Box | $5.00 |
| Buckram Bound Acts of Legislature | |
| 2010/I, II and III (2010 Regular Session) | $172.00 |
| 2011/I and II (2011 Regular and 1st Extraordinary Sessions) | $120.00 |
| 2012/I, II and III (2012 Regular Session) | $174.00 |
| 2013/I and II (2013 Regular Session) | $120.00 |
| 2014/I, II, and III (2014 Regular Session) | $170.00 |
| 2015/I and II (2015 Regular Session) | $205.00 |
| 2016/I and II (2016 Regular Session and 1st and 2nd Extraordinary Sessions) | $340.00 |
| Future Issues (Printed Annually) * | Varies |
| Code of Governmental Ethics | $5.00 |
| Corporation Law | $25.00 |
| Election Code | $20.00 |
| Lawrason Act | $5.00 |
| Legislative Calendar of the Legislature | $25.00 |
| Official Journal of the Proceedings of the House of Representatives | $25.00 |
| Official Journal of the Proceedings of the Senate | $25.00 |
| Report of Secretary of State CY 2009 and CY 2010 | $63.00 |
| Report of Secretary of State CY 2011 and CY 2012 | $60.00 |
| Report of Secretary of State CY 2013 and CY 2014 | $70.00 |
| Report of Secretary of State CY 2015 and CY 2016 | $40.00 |
| Report of Secretary of State (Future Issues) (Printed Bi-Annually) ** | Varies |
| Roster of Officials 2012 | $25.00 |
| Roster of Officials 2016 | $30.00 |
| Roster of Officials (Future Issues) (Printed Bi-Annually) * | Varies |

The department shall publish the cost in *The Advocate* annually for these publications and will post the costs on the department's website after the cost for each publication is determined.

*Pursuant to R.S. 43:22, the formula for the cost for publishing the Buckram Bound Acts of Legislature is as follows: Printing Estimate + 10 Percent of the Printing Cost +Postage/Quantity of Books Ordered.

**The cost for these publications may vary and is based upon the following: Printing Estimate + Department Staff Costs + Postage/Quantity of Books Ordered

5. State Archives Division—Archives Reproduction and Research Fees[1]

| Item | Fee |
|---|---|
| Digital Imaging— | |
| 600 Pixels Per Inch .TIFF Digital Image (Not for Commercial Use) (For Existing Original Photograph Collections Only) (See Reproduction Rights Fee) [2] | $10.00 |
| Reproduction Rights Fee (Commercial Use Only) (Per Image) [3] | $100.00 |
| Legislative Committee Audio Tapes Reproduction— | |
| For Public (Archives Provides Tape) (Cost Per Tape or Digital Image) | $20.00 |
| For State Agency (Archives Provides Tape) (Cost Per Tape or Digital Image) | $10.00 |
| Photocopy Reproduction— | |
| Confederate Pension Records Applications (Per Individual) (Cost Per One Application) | $20.00 |
| Military Service Records (Confederate Soldiers Military Records From Louisiana and World War I Discharge Records) (Cost Per Individual) | $15.00 |
| Other Historical Documents (Per Act 602 of the 2006 Regular Legislative Session) (Louisiana Governmental Agencies Only) (Cost Per Set) | $10.00 |
| Proces Verbal | |
| Certification or Recordation | $20.00 |
| Proces Verbal (Cost Per Page) | $2.00 |
| Self-Service Copy Charges— | |
| Book Scanner Prints (Cost Per Page) | $0.25 |
| Computer Printouts (Cost Per Page) | $0.25 |
| Microfilm Prints (Cost Per Page) | $0.50 |
| Photocopies (Cost Per Page) | $0.25 |
| Staff Reproduction of Archival Material— | |
| Document Certification (Cost Per Record) | $20.00 |
| Public Vital Records (Certified) (Cost Per Record) | $10.00 |
| Public Vital Records, Photocopy (Uncertified) (Cost Per Record) | $5.00 |

[1] Fees are for research and must be collected for both successful and unsuccessful searches. No research will be conducted until payment is received. As such, email requests will only be taken with approved bankcard prepayment.

[2] Refer to the Louisiana State Archives Policy on the Reproduction of Archival Images (Form LH10).

[3] Refer to the Louisiana State Archives Policy on the Reproduction of Archival Images (Form LH10) and Request for Permission to Publicly Display Images for Commercial Use (Form LF12).

a. The following forms will be used when requesting reproduction of archival images and requesting permission to publicly display images for commercial use:

i. Policy on the Reproduction of Archival Images (Form LH10); and/or

ii. Request for Permission to Publicly Display Images for Commercial Use (Form LFP12).

6. State Archives Division—Multi-Media Library[4]

| Item | Fee |
|---|---|
| Audio and Video Fees— | |
| Staff Research/Production Time Rush Fee | $50.00 |
| Materials Charge (Cost Per Tape) | $10.00 |
| Audio Duplication Fee for Screener— | |
| Local (Per Hour of Footage) | $100.00 |
| National (Per Hour of Footage) | $100.00 |
| Other Commercial (Per Hour of Footage) | $100.00 |
| Worldwide (Per Hour of Footage) | $100.00 |
| Film and Video Duplication Fee for Screener— | |
| Local (Per Hour of Footage) | $300.00 |
| National (Per Hour of Footage) | $300.00 |
| Other Commercial/Telecourse (Per Hour of Footage) | $300.00 |
| Worldwide (Per Hour of Footage) | $300.00 |
| Multimedia Archives License Fee Schedule— | |
| Cable/Satellite Television Transmission Only | |
| Local | $15.00 |
| Nationwide | $25.00 |
| Captured Audience (i.e. In-Flight, Cruise Ship) | $25.00 |
| In Addition to Any of the Other Media | $5.00 |
| Corporate Presentations, Live Events, Concerts and Museum Exhibits | |
| Local (One-Location or One-State) | $15.00 |
| Nationwide | $20.00 |
| Worldwide | $25.00 |
| Educational, Non-Commercial Distribution Only (Non-Broadcast) | |
| Local | $10.00 |
| Nationwide | $15.00 |
| In Addition to Any of the Other Media | $5.00 |
| Film Festivals | |
| Nationwide | $20.00 |
| Worldwide | $25.00 |
| In Addition to Any of the Other Media | $5.00 |

| Item | Fee |
|---|---|
| Home Video (CD-ROM, DVD) (Distribution Only) | $25.00 |
| In Addition to Any of the Other Media | $10.00 |
| Internet (Files must be protected from download) | $25.00 |
| In Addition to Any of the Other Media | $5.00 |
| Radio Transmission | |
| Nationwide | $10.00 |
| Worldwide | $15.00 |
| In Addition to Any of the Other Media | $5.00 |
| Television Broadcast and Cable/Satellite Transmission | |
| Local | $15.00 |
| Nationwide (U.S. and Canada) | $30.00 |
| Worldwide | $45.00 |
| Television Broadcast on Non-Commercial (PBS) Stations Only | |
| Local | $15.00 |
| Nationwide | $20.00 |
| Television Commercials | |
| Local (One Market) | $30.00 |
| Nationwide | $45.00 |
| Worldwide | $60.00 |
| Theatrical Distribution | $40.00 |
| Plus Nationwide Television Broadcast and Cable/Satellite Television | $45.00 |
| Plus Worldwide Television Broadcast and Cable/Satellite Television | $50.00 |
| Video-On-Demand/Pay-Per-View (Includes Downloadable Video and Wireless Devices) | $20.00 |
| In Addition to Any of the Other Media | $5.00 |
| All Media, Not Known, Worldwide | $90.00 |

[4] A $300 minimum license fee applies to all the license fees listed herein and is due and payable at the time the footage is ordered from Louisiana State Archives and is non-refundable in the event of non-usage of the footage.

7. State Archives Division—Micrographics and Storage (Interagency Services Only)

| Item | Fee |
|---|---|
| 2nd Diazo Duplicate Reel (16 mm) | $10.00 |
| 2nd Diazo Duplicate Reel (35 mm) | $15.00 |
| 2nd Silver Original Reel (Dual Reels) | $8.00 |
| Add-on Image to Microfiche Jacket | $0.20 |
| From Paper to Microfilm | $0.07 |
| Load Reel onto Cartridge | $10.00 |
| Microfiche Jacket | $0.50 |
| Microfilm Duplication of Existing Roll (Cost Per Roll) | |
| 16 mm Reel (Includes Shipping and Handling) | $20.00 |
| 16 mm Reel (Duplicate Film for State Agencies) | $10.00 |
| 35 mm Reel (Includes Shipping and Handling) | $25.00 |

The microfilm image (16 mm or 35 mm) price includes the following: pickup, make ready, filming, processing, storage of original reel at the Louisiana State Archives Facility, duplicate reel sent to agency, disposal of original documents, and/or return of documents per agency instruction or approval. For more details or job price quotes, please contact the microfilm program at (225) 922-1000.

8. State Archives Division—Storage Facility

| Item | Fee |
|---|---|
| Package of Cubic Foot Boxes (Storage Boxes for State Records Center Storage) (25 Boxes in Package) | Actual Cost |

Due to the fluctuation in the department's procurement cost of the storage boxes, the actual cost for boxes will be assessed and will be posted on the department's website.

B. Method of Payment

1. The acceptable methods of payment for fees specified in Subsection A above are credit card (see bankcard convenience fee below), check, money order, or cash. Checks and money orders should be made to the Department of State.

2. There is a service charge for using a bankcard for transactions conducted via internet, postal mail, email, FAX, and telephone requests. If using a credit or debit card for an in-person transaction, there is no service charge. Since the bankcard convenience fee has to be approved by the State Treasurer, the fee will be posted on the department's website. This amount may vary.

3. Payments from state entities are to be processed through authorized state accounting systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1447, R.S. 9:2782, R.S. 18:1293, R.S. 24:172, R.S. 24:173.1, R.S. 25:1282, R.S. 25:1284, R.S. 36:742, R.S. 40:1151.2, R.S. 43:19, R.S. 43:22, R.S. 44:1 et seq., R.S. 44:402, R.S. 44:405, R.S. 44:406, R.S. 44:408, R.S. 44:415, R.S. 44:420, R.S. 44:421, R.S. 49:222(A), R.S. 49:227, R.S. 49:228, Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, and Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (22 CFR 96).

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 43:2537 (December 2017).

**§403. Department of State Public Records Request**

A. The Department of State processes public records requests during regular business hours (Monday through Friday from 8 a.m. to 4:30 p.m.) each business day. The department does not process requests on Saturdays, Sundays, or state holidays.

B. All requests shall be made in writing and may be made by completing a form that will be provided on the department's website. If the copies are to be certified, the person making the request should notify the department when making his request. Certified copies are not available when transmitting records via email, except for commercial records.

C. When submitting a request in writing or in-person, the requestor should use the following address: Department of State, Attention: Legal Division (Public Records Request), 8585 Archives Blvd., P.O. Box 94125, Baton Rouge, LA 70804-9125. Requests may also be made online by answering all of the questions provided on the form and submitting the request to the following email address: PublicRecordsRequest@sos.la.gov.

D. Every public records request shall provide a detailed description of the documents being requested. In addition, the requestor shall inform the department as to the format (i.e., hard copy, electronic copy, USB drive, CD, tape, etc.) to use when submitting the documents to the requestor. In addition, he must stipulate the delivery method (U.S postal service, express mail, electronic delivery, in-person, or fax) that will be used to submit documents to requestor.

E. After the department processes the request, an estimate of the costs will be submitted to the requestor

utilizing the costs specified in §401 above plus the cost of delivery. All payments can be made utilizing a credit card (see §401.B.2 above for convenience fee), check, or money order. Once the department receives the funds from the requestor, the department will release the documents to the requestor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 44:1 et seq., and R.S. 49:222(A).

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 43:2539 (December 2017).

**§405. Louisiana State Archives Facilities**

A. Non-Profit Groups and Civic Organizations. There is no rental fee charged for use of the state archives facility during regular business hours (Monday through Friday 8 a.m. to 4 p.m.). These meetings must be free and open to the public. If a non-profit group or civic organization wants to meet after hours, there will be a $50 security fee charged. The state archives facility closes at 9 p.m. for all after hour events.

B. For-Profit and Commercial Groups. These groups will be charged based on the schedule listed below:

1. $75 for half-day rental;
2. $150 for full-day rental during regular business days (Monday to Friday from 8 a.m. to 4 p.m.); and
3. $300 for after-hours events.

B. The state archives facilities will close at 9 p.m. for all after-hours events.

C. Method of Payment. When paying for either the rental cost or the security fee, one-half of the total fee is to be made payable to the Department of State and the other one-half is to be made payable to the Friends of the Louisiana State Archives.

D. In order to rent the state archives facility, all organizations will be required to complete a Louisiana State Archives Event Request Form, which can be found on the department's website. On the form, the organization will be required to acknowledge agreement with the indemnification provision specified on the form. The completed form should be mailed to the Department of State, Archives Division, P.O. Box 94125, Baton Rouge, LA 70804-9125. The form may also be emailed to the Archives Division. If there are any questions, call the state archives facility at (225) 922-1000.

E. The state archives facility consists of the following:

1. auditorium (95 permanent tiered seats with a capacity of 120 when using folding chairs);
2. gallery (40-seat capacity with no projector option); and
3. lobby.

F. In addition, the organization shall indicate if they need any of the following:

1. microphone;
2. podium;
3. projector;
4. 6-foot tables; and/or
5. additional folding chairs.

G. Every effort will be made to accommodate requests; however, events may have to be postponed or moved to alternate locations due to unforeseen circumstances, such as early voting. The department will notify the organization as soon as possible should any change become necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 44:408, and R.S. 49:222(A).

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 43:2540 (December 2017).

Tom Schedler
Secretary of State

1712#018

# Notices of Intent

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,
District, andState Accountability System
(LAC 28:XI.Chapters 1-24, 2501, 2505, 2901, 3101,
3103, Chapters 33-40, 4104, 4301, 4310 and 4503)

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 (BESE) approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §101, School Accountability; §301, School Performance Score Goal; §303, Transition from Fall 2013 to Spring 2016 (2014, 2015, and 2016 SPS Release); §305, Transition from 2017-2018 to 2024-2025 SPS Release; §405, Calculating a K-8 Assessment Index; §409, Calculating a 9-12 Assessment Index; §411, ACT/WorkKeys Index; §413, Dropout/Credit Accumulation Index Calculations; §501, Calculating an Elementary/Middle School Progress Index; §503, Calculating a High School Progress Index; §615, State Assessments and Accountability; §617, Inclusion of Students; §619, Inclusion of Schools; §621, Pairing/Sharing of Schools with Insufficient Test Data; §701, Defining a Graduation Index; §703, Determining a Cohort for a Graduation; §707, Safe Harbor; §708, Using a Graduation Rate in the Subgroup Component; §709, Failing the Subgroup Component; §711, Documenting a Graduation Index; §712, Calculating a Cohort Graduation Index; §713, Calculating a Strength of Diploma Index; §801, Subgroup Performance; §803, Inclusion of Students in the Subgroup Component Performance; §805, Urgent Intervention Needed; §807, Urgent Intervention Required; §809, Comprehensive Intervention Required; §811, Required Interventions; §1101, Letter Grades; §1102, Academically Unacceptable Schools (AUS); §1105, Turnaround Schools; §1107, Unknown School and District Performance Due to Nonparticipation in State Assessments (2014-2015 Only); §1605, Entry and Exit from Subgroup Component Failure; §1301, Reward Eligibility; §1601, Identification as an Academically Unacceptable School; §1603, Requirements for Academically Unacceptable Schools; §1607, Requirements for Schools Identified as Failing the Subgroup Component for Two Consecutive Years; §2101, State Support at Each Level; §2401, Eligibility for Transfer to the Recovery School District; §2501, Schools Requiring Choice; §2505, Transfer Options; §2901, State Annual Reporting; §3101, Appeals/Waivers and Data Certification Processes; §3103, Definitions; §3301, Inclusion of New Schools; §3303, Reconfigured Schools; §3901, Assessment of Students with Disabilities; §3903, LEAP Alternate Assessment Participation Criteria; §3905, Inclusion of Alternate Assessment Results; §4001, Proficient in English; §4003, Making Progress in Learning English; §4005, English Language Proficiency Descriptors; §4104, Data Validation; §4301, Inclusion of All Districts; §4310, Subgroup Component AYP (Adequate Yearly Progress); and §4503, One Year Waiver for "Severe Impact" Schools and Districts.

**Title 28**
**EDUCATION**
**Part XI. Accountability/Testing**
**Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System**

**Chapter 1. General Provisions**

**§101. School Accountability**
**[Formerly LAC 28:LXXXIII.101]**

A. …

B. Under the Every Student Succeeds Act (ESSA), which reauthorized the federal Elementary and Secondary Education Act, a state's accountability system must apply the same high standards of academic achievement to all public elementary and secondary school students in the state and result in continuous and substantial academic improvement for all students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 44:

**Chapter 3. School Performance Score Component**

**§301. School Performance Score Goal**
**[Formerly LAC 28:LXXXIII.301]**

A. - B. …

C. Final accountability results shall be issued by the fall semester of each year and all accountability reports will reflect the configuration of the school as it existed the prior spring semester.

1. Beginning in the 2017-2018 school year (2018 SPS), the school performance score for K-7 schools will include an assessment index and a progress index. An interests and opportunities indicator will be included in school performance scores no later than the 2019-2020 school year (2020 SPS).

2. Beginning in 2017-2018 (2018 SPS), the school performance score for K-8 schools will include an assessment index, progress index, and dropout/credit accumulation index. The interests and opportunities indicator will be included in school performance scores no later than 2019-2020 school year (2020 SPS).

| K-8 School Performance Score Indices and Weights | | | |
|---|---|---|---|
| **Index** | **Grades** | **Beginning in 2017-18** | **No Later than 2019-20** |
| 3-8 and high school LEAP 2025, EOC, LEAP Connect, and ELPT* | Grades K-7 | 75 percent | 70 percent |
| | Grades K-8 | 70 percent | 65 percent |
| Progress Index | Grades K-8 | 25 percent | 25 percent |
| Dropout/Credit Accumulation Index | Grade 8 | 5 percent | 5 percent |
| Interests and Opportunities | Grades K-8 | NA | 5 percent |

*Beginning in 2018-19

3. Beginning in the 2017-2018 school year (2018 SPS), the school performance score for schools with a grade 12 will include five indicators as outlined in the table below. The interests and opportunities indicator will be included in school performance scores no later than 2019-2020 school year (2020 SPS).

| High School Performance Score Indices and Weights | | | |
|---|---|---|---|
| **Index** | **Grades** | **Beginning in 2017-2018** | **No Later than 2019-2020** |
| High school LEAP 2025, EOC, LEAP Connect, LAA 1, and ELPT* | Grades 9-12 | 12.5 percent | 12.5 percent |
| Progress Index | Grades 9-12 | 12.5 percent | 12.5 percent |
| ACT/WorkKeys** | Grade 12 and graduating students with last enrollment as grade 11 | 25 percent | 25 percent |
| Strength of Diploma Index | Grade 12 | 25 percent | 25 percent |
| Cohort Graduation Rate | Grade 12 | 25 percent | 20 percent |
| Interests and Opportunities | Grades 9-12 | NA | 5 percent |

*Beginning in 2018-19
**When calculating a school's ACT index score, students participating in the LEAP Connect or LAA 1 assessment shall not be included in the denominator of such calculation.

4. - 4.b. …

i. assessment units from students who are initial testers for EOC or high school LEAP 2025 plus the students eligible to test ACT (students with EOC or high school LEAP 2025 and ACT will count only one time);

4.b.ii. - 5.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:1313 (July 2014), LR 40:2507 (December 2014), LR 41:1481 (August 2015), LR 41:2578 (December 2015), LR 42:2171, 2172 (December 2016), LR 44:

**§303. Transition from Fall 2013 to Spring 2016 (2014, 2015, and 2016 SPS Release) [Formerly LAC 28:LXXXIII.303]**

Repealed.

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), repealed LR 44:

**§305. Transition from 2017-2018 to 2024-2025 SPS Release**

A. Beginning in the 2017-2018 school year (2018 SPS), the overall grading scale will be adjusted to allow schools time to respond to higher expectations in each index. In 2018, the minimum score required for an A, B, and C school letter grade will be lowered by 10 points as compared to the 2012-13 baseline grading scale. In 2022, the scales will partially increase by five points each, and by 2025 the scale will return to the 2013 baseline ranges as detailed below.

| Beginning in 2017-2018 and through 2020-2021 | |
|---|---|
| **School Performance Score** | **Letter Grade** |
| 90.0-150.0 | A |
| 75.0-89.9 | B |
| 60.0-74.9 | C |
| 50.0-59.9 | D |
| 0-49.9 | F |

| Beginning in 2021-2022 and through 2023-2024 | |
|---|---|
| **School Performance Score** | **Letter Grade** |
| 95.0-150 | A |
| 80.0-94.9 | B |
| 65.0-79.9 | C |
| 50.0-64.9 | D |
| 0-49.9 | F |

| Beginning in 2024-2025 and beyond | |
|---|---|
| **School Performance Score** | **Letter Grade** |
| 100-150 | A |
| 85-99.9 | B |
| 70-84.9 | C |
| 50-69.9 | D |
| 0-49.9 | F |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

**§405. Calculating a K-8 Assessment Index [Formerly LAC 28:LXXXIII.405]**

A. For all grades 3-8 use the values from the following table.

| LEAP 2025 Index Points | |
|---|---|
| **Label** | **Subject-Test Index Points** |
| Advanced | 150 |
| Mastery | 100 |
| Basic | 80 |
| Approaching Basic | 0 |
| Unsatisfactory | 0 |

B. Beginning in the 2018-2019 school year, the K-8 assessment index will also include a measure of progress to English language proficiency for English learners. Every English learner's improvement on the English language proficiency exam counts in equal weight to all other exams.

C. Weight each subject-test index score by the corresponding value from the table below.

| Unit Weights for K-8 Assessment Index | | | | |
|---|---|---|---|---|
| **Grade** | **ELA** | **Math** | **Science** | **Social Studies** |
| 3rd | 2 | 2 | 1 | 1 |
| 4th | 2 | 2 | 1 | 1 |
| 5th | 2 | 2 | 1 | 1 |
| 6th | 2 | 2 | 1 | 1 |
| 7th | 2 | 2 | 1 | 1 |
| 8th | 2 | 2 | 1 | 1 |

D. Sum all weighted subject-test index scores.

E. Sum all weights applied to subject-test index scores from the table above (in Subsection B).

F. Divide the sum from Subsection D by the total scores.

G. When 8th grade students participate only in the algebra I exam and not also the grade-level math assessment, the algebra I test results shall be used in the middle school's assessment index (80 for basic, 100 for good/mastery, and 150 for excellent/advanced) and will be weighted by content as noted in the table above. Middle schools will also earn incentive points for all EOC or high school LEAP 2025 scores of good/mastery or excellent/advanced earned during the same year in which the test was administered.

1. Incentive points will be awarded as follows:
   a. excellent or advanced = 50;
   b. good or mastery = 25.

H. The policy, as outlined in Subsection F of this Section, shall also apply to combination schools. The EOC or high school LEAP 2025 score will be used in middle school results for the year in which the assessment is taken, incentive points may be awarded, and the score will be banked for use in the high school score once the student arrives in 9th grade, as outlined in §409.A.3.

I. In the 2017-2018 school year, the science test will be administered as a field test only. When calculating the K-8 assessment index for the 2017-2018 school year, either the 2015-2016 or 2016-2017 science assessment index, whichever yields the higher school performance score, shall be used as the science component of the overall assessment index and will be weighted by the 2017-2018 social studies assessment index tested population in order to limit impact of population changes from prior years.

J. In the 2018-2019 school year, the science test will be operational again. When calculating the K-8 assessment index, for the 2018-2019 school year, either the 2016-2017 or 2018-2019 science assessment index, whichever yields the higher school performance score, shall be used as the science component of the overall assessment index and will be weighted by the 2018-2019 social studies assessment index tested population in order to limit impact of population changes from prior years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 36:1989 (September 2010), LR 38:3106 (December 2012), LR 41:2579 (December 2015), LR 42:548 (April 2016), LR 42:2172 (December 2016), LR 44:

**§409. Calculating a 9-12 Assessment Index [Formerly LAC 28:LXXXIII.409]**

A. All operational end-of-course (EOC) and high school LEAP 2025 tests will be used in the calculation of the grade 9-12 assessment index.

1. ...

2. The performance level will be used in the calculation of the assessment index as described in the chart below.

| EOC or high school LEAP 2025 Performance Level | Index Points |
|---|---|
| Advanced (or Excellent) | 150 |
| Mastery (or Good) | 100 |
| Basic | 80 |
| Approaching Basic (or Fair) | 0 |
| Unsatisfactory (or Needs Improvement) | 0 |

3. Test scores of basic, good/mastery, or excellent/advanced earned by students at a middle school will be included in the SPS calculations of the high school to which the student transfers as well. The scores for the high school will be included in the accountability cycle that corresponds with the students' first year of high school. EOC or high school LEAP 2025 test scores considered "not proficient" (approaching basic/fair, unsatisfactory/needs improvement) will not be transferred, or banked, to the high school. Students will retake the test during summer remediation or at the high school, and the highest achievement level earned by the student from the first (middle school) or second administration of the test will be used in the calculation of the high school assessment index in the first year of high school.

4. Students who are completing their third year in high school must have taken the algebra I and English I~~I~~ tests, or LAA 1 or LEAP connect. If they do not, the students will be assigned a score of zero and be counted as non-participants in high school testing. All students must be included in the assessment cohort regardless of course enrollment, grade assignment or program assignment.

5. Beginning in the 2018-2019 school year, the grade 9-12 assessment index will also include a measure of progress to English language proficiency for English learners. Every English learner's improvement on the English language proficiency exam counts in equal weight to all other exams.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:1989 (September 2010), LR 37:2118 (July 2011), repromulgated LR 37:2382 (August 2011), amended LR 37:3200 (November 2011), LR 38:1212 (May 2012), LR 38:2357 (September 2012), LR 38:3106 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 40:1314 (July 2014), LR 41:2579 (December 2015), LR 42:548 (April 2016), LR 44:

**§411. ACT/WorkKeys Index**

A.1.The ACT composite score will be used in the calculation of the ACT assessment index as described in the chart below. To the extent practicable, a student's highest earned score for any ACT administration shall be used in the calculation.

| ACT Composite | Index Points Beginning in 2017-2018 |
|---|---|
| 0-17 | 0 |
| 18 | 70.0 |
| 19 | 80.0 |
| 20 | 90.0 |
| 21 | 100.0 |
| 22 | 103.4 |
| 23 | 106.8 |
| 24 | 110.2 |
| 25 | 113.6 |
| 26 | 117.0 |
| 27 | 120.4 |
| 28 | 123.8 |
| 29 | 127.2 |
| 30 | 130.6 |
| 31 | 134.0 |

| ACT Composite | Index Points Beginning in 2017-2018 |
|---|---|
| 32 | 137.4 |
| 33 | 140.8 |
| 34 | 144.2 |
| 35 | 147.6 |
| 36 | 150 |

2.a. Starting in the 2015-16 school year, student performance on the WorkKeys shall be included within the ACT index, where a student takes both assessments and earns a greater number of index points for WorkKeys than for ACT.

b. The concordance tables below shall be used to award points beginning in the 2017-18 school performance score results and shall be reevaluated annually for continued alignment with ACT performance.

| WorkKeys Index (2017-2018) | |
|---|---|
| **WorkKeys Level** | **Index Points** |
| Platinum | 134.0 |
| Gold | 110.2 |
| Silver | 70.0 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§413. Dropout/Credit Accumulation Index Calculations**
**[Formerly LAC 28:LXXXIII.413]**

A. - B.3. …

4. Students who are completing their third year in grade 8 shall be included in the calculation and earn zero points.

| Number of Carnegie Units | Index Point Award |
|---|---|
| 7 or more | 150 |
| 6.5 | 125 |
| 6 | 100 |
| 5.5 | 75 |
| 5 | 50 |
| 4.5 | 25 |
| 4 or less | 0 |
| 3rd year 8th grade student | 0 |
| Dropout | 0 |

**Chapter 5. Progress Index Calculations**

**§501. Calculating an Elementary/Middle School Progress Index**

A. Beginning in the 2017-2018 school year (2018 SPS), the progress index will be calculated for ELA and math LEAP 2025 assessments as follows.

B. For students scoring unsatisfactory, approaching basic, or basic in the prior school year, the progress index will award 150 points for each ELA and math score meeting or exceeding the "growth to mastery" target set by the department.

1. The growth to mastery target will be calculated by adding to the prior year scaled score the difference between the 8th grade scaled score required for mastery (750) and the prior year assessment scaled score divided by the number of years for the student to reach 8th grade (8 - prior year grade). For students with prior year grade 7, the growth to mastery target is a score of mastery.

2. Growth to mastery targets will be rounded to the nearest whole number but must be at least one point above the prior year scaled score.

C. For students scoring mastery on the prior year assessment, the progress index will award 150 points for meeting or exceeding the "continued growth" target.

1. The continued growth target will be calculated by adding to the prior year scaled score the difference between the 8th grade scaled score required for advanced (794 in ELA and 801 in math) and the prior year assessment scaled score divided by the number of years for the student to reach 8th grade (8 - prior year grade). For students with prior year grade 7, the continued growth target is a score of advanced.

2. Continued growth targets will be rounded to the nearest whole number but must be at least one point above the prior year scaled score.

3. If the continued growth target as calculated above exceeds the minimum score for advanced in the current year, the target is advanced.

D. A score of advanced in the current year will be awarded 150 points in the progress index.

E. If a student does not earn 150 points in Subsections B-E above, the value-added model will be used to measure individual student performance relative to similar peers.

1. For the purpose of school performance score calculations, the value-added model uses student characteristics including but not limited to prior academic achievement up to three years, special education exceptionality, economically disadvantaged status, English learner status, gifted status, section 504 status, suspensions, mobility, and absences to calculate typical outcomes for comparable students in ELA and math based on a longitudinal dataset from all students who took Louisiana state assessments in grades 3-12. Based on typical outcomes for comparable students, each student is assigned an expected score.

2. The difference between each student's actual achievement score and that student's expected score is the growth result. If actual achievement for a student was higher than expected achievement for that student with that history (e.g., actual: 725; expected: 700), then the result would be positive (e.g., growth result: 25). In contrast, if the actual score was less than the expected score, the growth result would be negative.

3. Each student growth result will be compared to all other student growth results in the same subject area (ELA or math) and percentile ranked from the 1st to 99th percentile.

4. Value-added model points will be awarded as follows.

| Student Growth Percentile | Index points |
|---|---|
| 80-99th percentile | 150 |
| 60-79th percentile | 115 |
| 40-59th percentile | 85 |
| 20-39th percentile | 25 |
| 1-19th percentile | 0 |

5. Students scoring mastery in the current year shall be awarded up to 150 points, but no fewer than 85 points in the progress index, including students who score in the 1st to 39th percentiles of VAM.

F. The progress index calculation will include all students who meet the inclusion requirements outlined in Chapter 5 and who have eligible LEAP or EOC assessment results in both the current and prior school year for the same content area. Student scores will be excluded from the progress index (growth to mastery and value-added model) if any of the following are true:

1. student did not take the ELA or math assessment, or assessment result was voided in current or prior year;

2. student has more than one missing prior year score in the available subject tests. For example, if the contents available in the prior year were ELA, math, science, and social studies, a student missing more than one score in those contents would be excluded;

3. assessment results for current or prior school year are in multiple grade levels in the same year;

4. current or prior year assessment results could not be matched to a valid student enrollment record needed for student characteristics used in the model;

5. assessment results for current and prior year are not sequential. For example, a student's prior year assessment record was for a 5th grade test and his/her current year assessment record was for a 4th grade test. Assessment results that are for 3rd grade tests in both the current and prior year are excluded;

6. insufficient numbers of comparable students for valid calculations within the value-added model.

G. The progress index will combine the results of two school years.

1. If only one year of data is available for a school, the progress index will be calculated based on one year only.

2. All students who meet the inclusion rules at a school for each individual school year will be included in the combined calculation. For example, in 2018-2019, the number of points earned by students in 2018-2019 will be added to the number of points earned by students in 2017-2018 and divided by the total number of students in 2018-2019 and 2017-2018.

H. If the EOC or high school LEAP 2025 result earned by students at a middle school is transferred, or banked, to the high school, the progress index result for the relevant assessment will also be transferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§503. Calculating a High School Progress Index**

A. Beginning in the 2017-2018 school year (2018 SPS), the progress index will be calculated for algebra I, geometry, English I, and English II assessments as follows.

B. Progress is measured between a student's 8th grade ELA and math assessments and the high school EOC or LEAP 2025 ELA and math assessments (algebra I, geometry, English I, and English II).

1. If a student took only the EOC or high school LEAP 2025 assessment in middle school, the middle school progress index results will carry forward to the high school.

2. Retests will not be counted in the progress index.

C. For students scoring unsatisfactory, approaching basic, or basic on the baseline assessment, the progress index will award 150 points for each English and math score meeting or exceeding the growth to mastery target.

1. The growth to mastery target for students taking their first EOC or high school LEAP 2025 in a content area will be calculated by adding to the baseline scaled score the difference between the scaled score required for mastery (750) and the baseline scaled score divided by two. The growth to mastery target for students taking their second EOC or high school LEAP 2025 in a content area will be mastery (750).

2. Growth to mastery targets will be rounded to the nearest whole number but must be at least one point above the baseline scaled score.

D. For students scoring mastery on the baseline assessment, the progress index will award 150 points for meeting or exceeding the "continued growth" target.

1. The continued growth target will be calculated by adding to the baseline scaled score the difference between the English II and geometry scores required for advanced and the prior year assessment scaled score divided by two. For students taking their second EOC or high school LEAP 2025 in a content area, the continued growth target is a score of advanced.

2. Continued growth targets will be rounded to the nearest whole number but must be at least one point about the baseline scaled score.

3. If the continued growth target as calculated above exceeds the minimum score for Advanced in the current assessment, the target is advanced.

E. A score of advanced in the current year will be awarded 150 points in the progress index.

F. If a student does not earn 150 points in B-D above, the value-added model will be used to measure individual student performance relative to similar peers.

1. For the purpose of school performance score calculations, the value-added model uses student characteristics including but not limited to prior academic achievement up to three years, special education exceptionality, economically disadvantaged status, English learner status, gifted status, section 504 status, suspensions, mobility, and absences to estimate typical outcomes for comparable students in ELA and math based on a longitudinal dataset from all students who took Louisiana state assessments in grades 3-12. Based on typical outcomes for comparable students, each student is assigned an expected score.

2. The difference between each student's actual achievement and that student's expected score is the growth result. If actual achievement for a student was higher than expected achievement for that student with that history (e.g., actual: 725; expected: 700), then the result would be positive (e.g., growth result: 25). In contrast, if the actual score was less than the expected score, the growth result would be negative.

3. Each student growth result will be compared to all other student residuals in the same subject area (ELA or math) and percentile ranked from the 1st to 99th percentile.

4. Value-added model points will be awarded as follows.

| Student Growth Percentile | Index points |
|---|---|
| 80-99th percentile | 150 |
| 60-79th percentile | 115 |
| 40-59th percentile | 85 |

| Student Growth Percentile | Index points |
|---|---|
| 20-39th percentile | 25 |
| 1-19th percentile | 0 |

5. Students scoring mastery in the current year shall be awarded up to 150 points, but no fewer than 85 points in the progress index, including students who score in the 1st to 39th percentiles of VAM.

G. The progress index calculation will include all students who meet the inclusion requirements outlined in Chapter 5 and have eligible LEAP or EOC assessment results in both the current and prior school year for the same content area. Student scores will be excluded from the progress index (growth to mastery and value-added model) if any of the following are true:

1. student did not take the ELA or math assessment or assessment result was voided in current or prior year;

2. student has more than one missing prior year score in the available subject tests. The value-added model uses tests in all contents available to analyze any given content. For example, if the contents available in the prior year were ELA, math, science, and social studies, a student missing more than one score in those contents would be excluded;

3. assessment results for current or prior school year are in multiple grade levels in the same year;

4. current or prior year assessment results could not be matched to a valid student enrollment record needed for student characteristics used in the model;

5. insufficient numbers of comparable students for valid calculations within the value-added model;

6. student is dually enrolled in algebra I and geometry courses (applies to geometry only).

H. The progress index will combine the results of two school years.

1. If only one year of data is available for a school, the progress index will be calculated based on one year only.

2. All students who meet the inclusion rules at a school for each individual school year will be included in the combined calculation. For example, in 2018-2019, the number of points earned by students in 2018-2019 will be added to the number of points earned by students in 2017-2018 and divided by the total number of students in 2018-2019 and 2017-2018.

3. In 2017-2018 only, the high school progress index will be based only on one year of results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§515. State Assessments and Accountability [Formerly LAC 28:LXXXIII.515]**

Repealed.

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 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007), LR 36:1990 (September 2010), LR 37:2119 (July 2011), LR 38:1212 (May 2012), LR 38:3107 (December 2012), 39:2443 (September 2013), LR 40:2507 (December 2014), repealed LR 44:

**§517. Inclusion of Students [Formerly LAC 28:LXXXIII.517]**

Repealed.

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 31:2422 (October 2005), LR 31:2764 (November 2005), LR 33:2594 (December 2007), LR 38:3107 (December 2012), LR 39:305 (February 2013), LR 40:1315 (July 2014), repealed LR 44:

**§519. Inclusion of Schools [Formerly LAC 28:LXXXIII.519]**

Repealed.

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), repealed LR 44:

**§521. Pairing/Sharing of Schools with Insufficient Test Data [Formerly LAC 28:LXXXIII.521]**

Repealed.

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 30:1445 (July 2004), LR 32:1023 (June 2006), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 39:1422 (June 2013), LR 40:1315 (July 2014), repealed LR 44:

## Chapter 6. Inclusion in Accountability

**§601. State Assessments and Accountability [Formerly §515]**

A. Louisiana students in grades 3-8 will participate in at least one of the following state assessments on an annual basis:

1. LEAP; or

2. LEAP connect.

B. Louisiana students in grades 9, 10, 11, and 12 will participate in at least one of the following state assessments:

1. EOC or high school LEAP 2025 (when they are enrolled in the course for which a test is available);

2. LEAP alternate assessment level 1 (LAA 1) or LEAP connect;

3. ACT in grade 11 or 12.

C. All students who are English learners shall take the Louisiana English language proficiency test (ELPT) assessment annually, as well as the appropriate state assessment for their enrolled grade.

D. EOC or high school LEAP 2025 scores for repeaters (in any subject) shall not be included in high school SPS calculations except for middle school students who earn a score of unsatisfactory/needs improvement or approaching basic/fair and retake the EOC or high school LEAP 2025 test.

E. English learners who have not been enrolled in a school in the United States for one full school year shall participate in all required academic assessments and the ELPT.

1. In the first year, academic assessment and ELPT scores will not be included in school performance score calculation as indicated by the application of an assigned accountability code and verification of first year enrollment.

2. In the second year, ELA and math assessment scores will be included in the progress index only, and as outlined in Chapter 5 ELPT improvement will be included in the assessment index.

3. In the third year, academic assessment will be included in the assessment and progress indices and ELPT improvement will be included in the assessment index for school performance score calculations.

F. Scores earned by any student during an academic year who transferred into the LEA after October 1 of the same academic year shall not be included in the school performance score (SPS) or subgroup performance score.

G. An ACT score from a 12th grade student will count in only one accountability cycle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007), LR 36:1990 (September 2010), LR 37:2119 (July 2011), LR 38:1212 (May 2012), LR 38:3107 (December 2012), 39:2443 (September 2013), LR 40:2507 (December 2014), LR 44:

**§603. Inclusion of Students**
**[Formerly §517]**

A. The test score of every student who is enrolled in any school in an LEA on October 1 of the academic year and who is eligible to take a test at a given school within the same LEA shall be included in the LEA's district performance score (DPS). The score of every student that will count in the DPS will be counted at the school where the student was enrolled on February 1 for SPS and subgroup performance.

1. For EOC or high school LEAP 2025 tests taken in December the score will count in the SPS at the school where the student is enrolled for the test.

2. For ACT, a grade 12 student will be considered full academic year at the school and district from which the student graduated in December of the current school year if the student was enrolled in the district on October 1.

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 31:2422 (October 2005), LR 31:2764 (November 2005), LR 33:2594 (December 2007), LR 38:3107 (December 2012), LR 39:305 (February 2013), LR 40:1315 (July 2014), LR 44:

**§605. Inclusion of Schools**
**[Formerly §519]**

A. All K-8 schools shall have a minimum of 40 testing units in any combination of LEAP or LEAP connect assessments.

B. All 9-12 and combination schools shall have a minimum number of 40 units in any combination of graduation cohort membership and 3-8 and high school LEAP 2025, LAA 1, EOC, LEAP connect, or ACT 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 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), LR 44:

**§607. Pairing/Sharing of Schools with Insufficient Test Data**
**[Formerly §521]**

A. Any school with at least one testing grade (3-11) will receive its SPS based only on its own student data provided it meets the requirements of §605.

B. Any K-2 school with insufficient testing data will be awarded an SPS equal to the SPS of the school to which it is paired.

C. Any school enrolling only twelfth grade students will be awarded an SPS based on shared data from a school or schools containing grades 9-11 that send it the majority of its students. This sharing relationship is to define the cohort that will provide the starting roster on which its graduation index will be based

D. Any K-2, 9-12 configuration shall receive an SPS based solely on the 9-12 data.

E. A district must identify the school where each of its non-standard schools shall be paired in order to facilitate the proper sharing of data for reporting purposes, as described above. The paired school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the paired school must be the school into which the largest percentage of students feed. If two schools receive an identical percentage of students from a non-standard school, or when there is no distinct feeder pattern, the district shall select the paired school.

F. Requirements for the number of test/graduation index units shall be the sum of the units used to calculate the school's SPS (see §605).

G. If a school has too few test units to be a "stand-alone" school, it may request to be considered stand-alone.

1. It shall receive an SPS that is calculated solely on that school's data, despite the small number of test units.

2. The request shall be in writing to the LDE from the LEA superintendent.

3. The school forfeits any right to appeal its SPS and status based on minimum test unit counts.

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 30:1445 (July 2004), LR 32:1023 (June 2006),

LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 39:1422 (June 2013), LR 40:1315 (July 2014), LR 44:

**§611. Documenting a Graduation Index [Formerly LAC 28:LXXXIII.611]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 35:639 (April 2009), LR 35:2312 (November 2009), LR 36:2242 (October 2010), LR 36:2841 (December 2010), LR 38:3108 (December 2012), LR 40:1316 (July 2014), LR 42:2172 (December 2016), repealed LR 44:

**§612. Calculating a Cohort Graduation Index [Formerly LAC 28:LXXXIII.612]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:306 (February 2013), repealed LR 44:

**§613. Calculating a Graduation Index [Formerly LAC 28:LXXXIII.613]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013), LR 40:1317 (July 2014), LR 41:615 (April 2015), LR 42:1017 (July 2016), LR 42:2172 (December 2016), repealed LR 44:

## Chapter 7. Graduation Cohort, Index, and Rate [Formerly Chapter 7]

**§701. Defining a Graduation Index [Formerly §601]**

A. The Louisiana Department of Education (LDE) will calculate a graduation index based on a cohort of students for use in the school performance score of each school with students in grade 12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 38:1391 (June 2012), LR 38:3108 (December 2012), LR 44:

**§703. Determining a Cohort for a Graduation [Formerly §603]**

A. A cohort of students is all students who entered 9th grade for the first time in the state of Louisiana in a given academic year.

B. Each cohort of students will be tracked for four years, from entry as first-time ninth graders through four academic years. Transitional ninth graders will enter automatically the first-time ninth grade cohort in the year after enrolling in transitional ninth grade.

C. Students who exit Louisiana's student information system (SIS) system in fewer than four years for legitimate reasons shall not be included in the cohort's graduation index calculations.

1. For graduation cohort calculations, exit codes 07, 10, 14, 16, and 20 from §611 are legitimate, along with any special codes created to deal with natural disasters.

2. Beginning with accountability decisions made in fall 2010 (using 2009 grad data), the only legitimate leavers from a cohort are those who:

a. transfer from Louisiana K-12 public education to a diploma awarding school or program;

b. emigrate to another country;

c. are deceased.

3. Specific documentation is required for students to be considered legitimate leavers.

a. The only acceptable documentation for transfers to other diploma awarding schools is a request for student records from the qualifying school or program, or a letter from an official in the receiving school or program acknowledging the students enrollment. The LDE can, during data certification and audits, require proof that the school or program is recognized as a "diploma awarding" by the state in which it is located.

b. Documentation for a student transfer to home school is an official document from LDE indicating approval dated before October 1 following the student's exit from the Louisiana SIS.

c. Students who emigrate to another country must be documented with a statement signed by a parent, a request for student records, or an approved application for participation in a foreign exchange program which verifies dates of enrollment.

d. An obituary or a letter from a parent is sufficient documentation for a deceased student.

4. The LDE shall maintain and post on the LDE website a list of schools that are considered "non-diploma awarding."

5. A school is classified as "non-diploma awarding" if it:

a. awards fewer than five regular diplomas a year for two consecutive years; or

b. enrolls fewer than 10 twelfth graders for a full academic year for each of two consecutive years.

c. the LDE can grant exceptions to these rules for new schools and schools with small populations upon district request if it can be determined that no circumvention of accountability consequences will occur. The district is responsible for providing any data requested by the LDE.

D. Students that LEAs exit from a school or the LEA using anything other than legitimate leaver codes or those codes indicating completion of a high school course of study must subsequently appear in the Student Information System or they shall be considered dropouts from the state, LEA and school.

E. Students with no high school records in the Louisiana SIS who transfer from a home school, non-public school, or another state into a Louisiana school on or before October 1 of their eleventh grade year will enter the "on-time" cohort at the students' assigned grade level. Students with existing Louisiana public high school records will re-enter their original cohort.

F. Students transferring within the public school system in Louisiana will remain in their same cohort.

1. Students transferring within an LEA on or before October 1 of their cohort's fourth year will be included in the

calculation of the graduation index at the school into which they transfer and complete their fourth year of high school.

2. Students who exit their high school for more than 45 calendar days during their fourth year shall not be included in that high school's grad cohort calculation.

G. Students who graduate or complete high school in fewer than four years will be included in the cohort in which they started 9th grade.

H. Any student who exits K-12 education to enter a school or program that does not award a state-recognized high school diploma shall be considered a dropout in graduation cohort calculations.

I. Beginning with the 2016-2017 academic year, for students who exit and have no subsequent enrollment in a school, the school of last record will be considered the school that sent a valid request for student records to the school that applied the exit code.

1. If the last exit from enrollment is for expulsion (exit code 01), then the request for records will not be used to determine last school of record. The last school of enrollment shall be used.

2. This policy shall apply to dropout assignment for any cohort graduation period or DCAI year that includes 2016-2017 and beyond. Years prior to 2016-2017 that are included in a cohort graduation period or DCAI year will continue to use the historical rule, established by the student information system (SIS), of assigning the dropout to the school of last enrollment record in SIS.

J. All students (excluding those defined in Subsection C of this Section), regardless of entry or exit dates, are included in the state-level cohort.

K. Students assessed using the LAA 1 or LEAP connect shall be included in the graduation rate for the year in which they graduated or the year in which they exited after at least four years in high school with no subsequent re-enrollment by October 1 of the following academic year. Students who are not exited will be counted in the year that they reach the age of 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:424 (March 2007), LR 33:2031 (October 2007), LR 35:2312 (November 2009), LR 36:2242 (October 2010), LR 36:2840 (December 2010), LR 38:3108 (December 2012), LR 40:1316 (July 2014), LR 43:302 (February 2017), LR 44:

### §705. Documenting a Graduation Index [Formerly §611]

A. Beginning with academic year 2005-2006, all schools are required to maintain the following documentation if the corresponding exit code is used.

| Exit Code Documentation | | |
|---|---|---|
| **Code** | **Descriptions** | **Required Documentation** |
| 07 | Death (of student) or permanent incapacitation | Letter from parent or obituary |
| 10 | Transferred out of state or country | Request for records from the receiving school (out of state). Request for records or a statement written and signed by the parent. Documentation proving a student was a foreign exchange student. |
| 14 | Transferred to approved non-public school (must award high school diplomas) | Request for records from the receiving school |
| 16 | Transferred to BESE-approved home study | LDE Approval letter |
| 20 | Transferred to Early College Admissions Program | School withdrawal form and request for records from the College or University and proof of full-time enrollment in an academic program |

B. Valid alternate documentation that provides sufficient justification for the use of an exit code is allowable.

C. Schools without sufficient documentation to support exit codes are subject to the actions described in Chapter 41.

D. Schools shall maintain documentation that supports exit codes for at least four years after the data has been used in School Performance Scores.

E. The authenticity of exit code documentation is determined by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 35:639 (April 2009), LR 35:2312 (November 2009), LR 36:2242 (October 2010), LR 36:2841 (December 2010), LR 38:3108 (December 2012), LR 40:1316 (July 2014), LR 42:2172 (December 2016), LR 44:

### §707. Calculating a Cohort Graduation Index [Formerly §612]

A. To calculate the cohort graduation index, the following formulas shall be used.

| Cohort Graduation Rate (CGR) | Formula Used |
|---|---|
| 0 percent to 75 percent | CGR x 0.9 |
| 76 percent to 90 percent | CGR x 1.111112 |
| 91 percent to 100 percent | +5 points per percent increase (91=105, 92=110) |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:306 (February 2013), amended LR 44:

### §708. Using a Graduation Rate in the Subgroup Component [Formerly LAC 28:LXXXIII.708]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1026 (June 2006), amended LR 33:424 (March 2007), LR 36:2243 (October 2010), LR 37:1122 (April 2011), LR 38:3110 (December 2012), repealed LR 44:

### §709. Calculating a Strength of Diploma Index [Formerly §613]

A. Beginning in 2017-2018 (2016-2017 cohort), points shall be assigned for each member of a cohort according to the following table.

| Student Result | Points |
|---|---|
| HS Diploma plus Associate's Degree | 160 |
| HS Diploma plus<br>(a) AP score of 3 or higher, IB Score of 4 or higher, or CLEP score of 50 or higher<br>OR<br>(b) Advanced statewide Jump Start credential<br>*Students achieving both (a) and (b) will generate 160 points. | 150 |
| HS Diploma plus<br>(a) At least one passing course grade for TOPS core curriculum credit of the following type: AP**, college credit, dual enrollment, or IB**<br>OR<br>(b) Basic statewide Jump Start credential<br>*Students achieving both (a) and (b) will generate 115 points.<br>**Students must take the AP/IB exam and pass the course to earn 110 points. | 110 |
| Four-year graduate (includes Career Diploma student with a regional Jump Start credential) | 100 |
| Five-year graduate with any diploma<br>*Five-year graduates who earn an AP score of 3 or higher, an IB score of 4 or higher, a CLEP score of 50 or higher, or an Advanced statewide Jump Start credential will generate 140 points. | 75 |
| Six-year graduate with any diploma | 50 |
| HiSET plus Jump Start credential | 40 |
| HiSET | 25 |
| Non-graduate without HiSET | 0 |

B. The graduation index of a school shall be the average number of points earned by cohort members, except that students assessed using the LAA 1 or LEAP connect shall be included in the graduation index for the year in which they graduated or the year in which they exited after at least four years in high school with no subsequent re-enrollment by October 1 of the following academic year. Students who are not exited will be counted in the year that they reach the age of 22.

1. Starting with the graduating class of 2017-2018 (2019 SPS), only WIC-approved industry based certifications (IBCs) will be included as basic statewide credentials.

2. A credential must be earned no later than August 31 following on-time graduation.

C.1. When related to awarding fifth-year graduate points, the enrollment must be continuous and consist of at least 45 calendar days only if the student graduates from an LEA different than the one to which the student was assigned in the fourth year.

D. To ensure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data. (The index earned by the graduating class of 2012 will be used for 2013 accountability calculations.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013), LR 40:1317 (July 2014), LR 41:615 (April 2015), LR 42:1017 (July 2016), LR 42:2172 (December 2016), LR 44:

## Chapter 9. Urgent Intervention and Comprehensive Intervention

### §901. Subgroup Performance

A. A subgroup performance score shall be calculated for each school and district in the same manner as defined in Chapter 3 of this bulletin.

1. A subgroup performance score shall be calculated, at a minimum, for each major racial and ethnic group, as well as the following student groups:

a. economically-disadvantaged;

b. students with disabilities;

c. English learners;

d. foster care;

f. homeless; and,

g. military-affiliated.

2. In order to receive a subgroup performance score, a school must have in the subgroup a minimum of 10 students included in each graduation, dropout credit, and ACT index and 40 units in each assessment and progress index included in the school's overall school performance score calculation.

B. School subgroup performance scores will be reported publicly by percentile rank relative to all other schools receiving a score for each subgroup.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §903. Inclusion of Students in the Subgroup Component Performance [Formerly §703]

A. Students that meet the full academic year criteria, as described in §603 and as described in Paragraphs A.1-2 of this Section, shall be included in all subgroup performance score calculations:

1. student is a former English learner student for up to two years after no longer being considered an English language learner under state rules. These students will not count toward the minimum n for the EL subgroup;

2. student was previously identified as having a disability, but has exited IEP status within the past two years. These students will not count toward the minimum n for the students with disabilities subgroup.

B.1. In calculating the school performance score:

a. the alternate academic achievement standards for students participating in LAA 1 or LEAP connect will be used, provided that the percentage of students assessed using the LAA 1 or LEAP connect at the district level does not exceed 1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent cap, the district shall request a waiver. The students exceeding the cap shall be assigned a 0 on the assessment and be considered non-proficient if:

i. the district fails to request the waiver; or

ii. if the district requests the waiver but it is determined by LDE that ineligible students were administered LAA 1 or LEAP connect;

b. when calculating the 1.0 percent cap for alternate assessment purposes, all decimals in results shall be rounded to the next highest whole number:

i. 1.0 percent of 628 students is 6.28 students. The 1.0 percent cap, in this instance, is 7 students.

2. Students participating in LAA 1 or LEAP connect shall be included in the students with disabilities subgroup.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004), amended LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:253 (February 2007), LR 34:428 (March 2008), LR 34:867 (May 2008), LR 36:1991 (September 2010), LR 37:2119 (July 2011), LR 38:3110 (December 2012), LR 40:2507 (December 2014), LR 44:

**§905. Urgent Intervention Needed**

A. Schools will be labeled "urgent intervention needed" for each subgroup in which the subgroup performance score is equivalent to a "D" or "F" letter grade on the school performance score scale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§907. Urgent Intervention Required**

A. Schools will be labeled "urgent intervention required" for each subgroup in which the subgroup performance score is equivalent to an "F" letter grade on the school performance score scale for two consecutive years in the same subgroup. Any such school shall not earn an overall letter grade of an "A." A school that would otherwise earn an "A" letter grade will instead earn a "B."

B. Schools exhibiting excessive out-of-school suspension rates more than double the most recent national average for the school type (elementary/middle, high, combination), as defined by the Civil Rights Data Collection, for three consecutive years will also be labeled "urgent intervention required."

1. Schools without tested grades shall not be paired for the purposes of identification relative to out of school suspension rates.

2. Schools must have at least 10 students enrolled in each of the three years.

C. To be no longer labeled "urgent intervention required," the school must not earn the equivalent of "urgent intervention required" for the same subgroup or for excessive out of school discipline for two consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§909. Comprehensive Intervention Required**

A. Any school that earns a "D" or "F" letter grade in the state accountability system for three consecutive years or with a cohort graduation rate of less than 67 percent in the most recent year will be labeled "comprehensive intervention required."

1. For a turnaround school that has earned one or more T letter grades as provided for in §1105.A, the department shall determine the "A," "B," "C," "D," or "F" equivalent letter grade for the purpose of determining whether the school has earned the "comprehensive intervention required" label.

2. A new school, as defined in §3301, will be labeled "comprehensive intervention required" if it earns a "D" or "F" letter grade in both the first and second year of operation.

B. Beginning in 2019-2020 (2020 SPS), a school that is labeled "urgent intervention required" for a period of three consecutive years for the same subgroup or for excessive out of school discipline will be labeled "comprehensive intervention required~~.~~," unless in the current year the school has improved the subgroup score or suspension rate for which it has earned the label, such that the school no longer has a subgroup score equivalent to a "F" or out of school suspension rate more than double the national average.

C. Schools that have fewer than 40 units may be labeled "comprehensive intervention required" based on the available data.

D. To no longer be labeled as requiring comprehensive intervention, the school must earn an "A," "B," or "C" letter grade for two consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

**§911. Required Interventions**

A. In accordance with Louisiana's approved consolidated State plan under the Every Student Succeeds Act (ESSA), each LEA shall develop a plan that describes the goals, strategies, and monitoring processes that will be used to address the challenges of each school labeled "urgent intervention required" or "comprehensive intervention required" for approval according to timelines and procedures developed by the LDE. Such plan shall remain in effect until such time as the school achieves established exit criteria set for in §907 and §909 of this bulletin, or until an amended plan is required.

B. The LDE shall support LEAs through providing assistance and feedback in the development of the plans and reviewing the implementation and effectiveness of the plans. The LDE shall increase involvement with LEAs for those schools that do not make progress.

C. To ensure continued progress to improve student academic achievement and school success, the LDE shall implement more rigorous actions for schools labeled "urgent intervention required" and "comprehensive intervention required" that fail to show improvement over time.

D. For each school that has been labeled "comprehensive intervention required" for four or more consecutive years, the LDE and BESE, if applicable, shall require one or more rigorous interventions permitted under state law

E. Each LEA required to submit a plan under this Section and §1601 of this bulletin shall submit a single plan to LDE that addresses the requirements of both Sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

## Chapter 11. School Performance Categories

### §1101. Letter Grades
[Formerly LAC 28:LXXXIII.1101]

A. Letter grades shall be assigned pursuant to §305 of this bulletin.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2120 (July 2011), amended LR 38:3110 (December 2012), LR 40:760 (April 2014), LR 41:2579 (December 2015), LR 44:

### §1102. Academically Unacceptable Schools (AUS)
[Formerly LAC 28:LXXXIII.1102]

A. A school with a letter grade of "F" shall be identified as an academically unacceptable school (AUS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2121 (July 2011), amended LR 39:304 (February 2013), LR 40:760 (April 2014), LR 44:

### §1105. Turnaround Schools
[Formerly LAC 28:LXXXIII.1105]

A. A turnaround school is a school in which a turnaround provider assumes operation over the operation of the entire school, continuing to offer the same or additional grade levels as the previous school, and enrolling all former students who choose to continue attending the school.

B. A turnaround school that was labeled "F" in the year in which the state board or the local school board approved the turnaround shall be reported as "T" for the first two years of operation under the turnaround provider.

C. However, all other metrics of the school performance report shall still be reported (e.g., SPS, subgroup performance).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3111 (December 2012), amended LR 44:

### §1107. Unknown School and District Performance Due to Nonparticipation in State Assessments (2014-2015 Only)
[Formerly LAC 28:LXXXIII.1107]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:549 (April 2016), repealed LR 44:

## Chapter 13. Rewards/Recognition

### §1301. Reward Eligibility
[Formerly LAC 28:LXXXIII.1301]

A. A school shall be labeled a "reward school" if it earns the equivalent to an "A" letter grade on the progress index.

B. …

C. Schools will not be eligible for reward status if they are labeled "urgent intervention required" for any reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:1446 (July 2004), LR 31:1513 (July 2005), LR 33:1334 (July 2007), LR 33:2595 (December 2007), LR 38:3111 (December 2012), LR 39:2444 (September 2013), LR 40:1317 (July 2014), LR 44:

## Chapter 16. Academically Unacceptable Schools

### §1601. Identification as an Academically Unacceptable School

A. A school with a letter grade of "F" shall be identified as an academically unacceptable school (AUS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

### §1603. Requirements for Academically Unacceptable Schools
[Formerly LAC 28:LXXXIII.1603]

A. For each academically unacceptable school operating under the jurisdiction of any city, parish, or other local public school board, the school's LEA shall be required to develop a reconstitution plan to describe the goals, strategies, and interventions that will be used to address the challenges of each academically unacceptable school as provided for in the table below according to timelines and procedures developed by the LDE.

| Years of Consecutive "F" Letter Grades for Academically Unacceptable School | Content of Plan | Approval of Plan Required by |
|---|---|---|
| 1st "F" Letter Grade | Evidence-based interventions | LDE |
| 2nd consecutive "F" Letter Grade | Evidence-based interventions, with adjustments as needed | LDE, which may recommend BESE review and approval |
| 3rd consecutive "F" Letter Grade | More intensive interventions as recommended by the LDE | BESE |
| 4th or subsequent consecutive "F" Letter Grade | More intensive interventions, including but not limited to possible transfer to RSD | BESE |

B. Each reconstitution plan shall include a school choice policy as required by Chapter 25 of this bulletin.

C. For plans submitted during the 2017-2018 school year based on 2016-2017 school year results, BESE shall consider reconstitution plans for schools earning a fourth or subsequent consecutive "F" letter grade that include evidence-based interventions developed by the LEA and recommended by the state superintendent.

D. Pursuant to the timelines set forth in Subsection A of this Section, the state superintendent shall approve or recommend to BESE appropriate interventions for alternative education schools or Office of Juvenile Justice schools as defined in Chapters 35 and 36 of this bulletin, respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2596 (December 2007), amended LR 35:2313 (November 2009), LR 38:3112 (December 2012), LR 44:

### §1605. Entry and Exit from Subgroup Component Failure
[Formerly LAC 28:LXXXIII.1605]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2597 (December 2007), repealed LR 44:

**§1607. Requirements for Schools Identified as Failing the Subgroup Component for Two Consecutive Years**
**[Formerly LAC 28:LXXXIII.1607]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2597 (December 2007), amended LR 38:3112 (December 2012), repealed LR 44:

**Chapter 21. State-Level School Improvement, Academically Unacceptable Schools and Subgroup Component Failure Tasks**

**§2101. State Support at Each Level**
**[Formerly LAC 28:LXXXIII.2101]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2748 (December 2003), amended LR 30:2745 (December 2004), LR 31:1516 (July 2005), LR 32:1027 (June 2006), LR 33:2598 (December 2007), LR 35:2313 (November 2009), LR 38:3112 (December 2012), repealed LR 44:

**Chapter 24. Recovery School District**

Editor's Note: Section 2403 has been incorporated into Bulletin 129—The Recovery School District. See LAC 28:CXLV.505.

**§2401. Eligibility for Transfer to the Recovery School District**
**[Formerly LAC 28:LXXXIII.2401]**

A. The Louisiana Legislature established the recovery school district with the passage of R.S. 17:1990. Pursuant to R.S. 17:10.5, a school is eligible for the recovery school district under any of the following conditions.

1. The city, parish, or other local public school board or other public entity fails to submit a reconstitution plan for a school to BESE for approval as required by §1603 of this bulletin.

2. A school's reconstitution plan is submitted to BESE but is deemed to be unacceptable.

3. A school and/or the city, parish, or other local public school board or other public entity fails to comply with the terms of a BESE approved reconstitution plan.

4. A school is labeled academically unacceptable for four consecutive years.

5. A successful parent petition as provided for in §502 of Bulletin 129.

B. The recovery school district under R.S. 17:10.5 shall retain jurisdiction of any school transferred to it for a period of not less than five school years not including the school year in which the transfer occurred if the transfer occurred during a 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 32:1028 (June 2006), amended LR 33:2599 (December 2007), LR 34:431 (March 2008), LR 35:640 (April 2009), LR 37:2595 (September 2011), LR 44:

**Chapter 25. School Choice**

**§2501. Schools Requiring Choice**
**[Formerly LAC 28:LXXXIII.2501]**

A. - B.2. …

C. An LEA must adopt a policy relative to school choice for students who previously attended or would otherwise attend a D-rated school, pursuant to R.S. 17:4035.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2749 (December 2003), amended LR 33:2599 (December 2007), LR 38:3113 (December 2012), LR 44:

**§2505. Transfer Options**
**[Formerly LAC 28:LXXXIII.2505]**

A. - B.2. …

C. Students may not transfer to any school that is academically unacceptable.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2749 (December 2003), amended LR 33:2599 (December 2007), LR 44:

**Chapter 29. Reporting**

**§2901. State Annual Reporting**
**[Formerly LAC 28:LXXXIII.2901]**

A. The SBESE shall report annually on the state's progress in reaching Louisiana's 2025 goals. The Louisiana Department of Education shall publish individual school reports to provide information on every school's performance. The school reports shall, at minimum, include the following information: school performance scores, percent proficient scores, and student growth.

1. In addition to the overall letter grade, LDE shall report individual ratings equivalent to a letter grade for key indices within the formula.

2. The LDE shall report subgroup performance to schools for the following subgroups:

a. African American;
b. American Indian/Alaskan Native;
c. Asian;
d. Hispanic;
e. white;
f. two or more races;
g. economically disadvantaged;
h. English learners;
i. students with disabilities;
j. homeless;
k. military-affiliated;
l. foster care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 38:3113 (December 2012), LR 44:

**Chapter 31. Data Correction and Appeals/Waivers Procedure**

**§3101. Appeals/Waivers and Data Certification Processes**
**[Formerly LAC 28:LXXXIII.3101]**

A. An appeal/waiver procedure and a data certification process have been authorized by the state Board of Elementary and Secondary Education (SBESE) and shall be used to address unforeseen and aberrant factors and to correct inaccurate accountability data impacting schools in Louisiana.

1. The LDE shall establish a data certification period for all schools/LEAs to correct any inaccurate accountability data prior to the release of accountability results.

A.1.a. - C.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:1620 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2257 (October 2004), LR 31:2422 (October 2005), LR 35:2313 (November 2009), LR 38:3113 (December 2012), LR 40:1318 (July 2014), LR 44:

**§3103. Definitions**
**[Formerly LAC 28:LXXXIII.3103]**

*Appeal*—a request for the calculation or recalculation of the school or district performance score.

*Waiver*—a temporary "withholding" of accountability decisions for no more than one accountability year. Waivers shall be denied to aggrieved parties attempting to subvert the intent of provisions outlined in the state statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:2258 (October 2004), LR 44:

**Chapter 33. New Schools and/or Significantly Reconfigured Schools**

**§3301. Inclusion of New Schools**
**[Formerly LAC 28:LXXXIII.3301]**

A. …

B. When two or more schools are created from an existing school (e.g., grades 4-6 "split" from an existing K-6 structure, creating a K-3 school and a 4-6 school), the LEA must consult with the LDE prior to implementing such changes to determine how the impacted schools will retain reward and/or academically unacceptable (AUS) or subgroup status and any sanctions, remedies, and funds (e.g., a 3-8 school in AUS 3 should retain the AUS 3 status in both schools if it is reconfigured into a 3-5 and a 6-8 school and if all grade levels contributed to its poor performance). After this consultation, the LDE shall make all decisions regarding the effects of these changes on accountability results and sanctions for all schools effected by the changes and will notify the LEA of its decision.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 31:2765 (November 2005), LR 33:2599 (December 2007), LR 36:1992 (September 2010), LR 37:3201 (November 2011), LR 38:2358 (September 2012), LR 38:3114 (December 2012), LR 40:1318 (July 2014), LR 44:

**§3303. Reconfigured Schools**
**[Formerly LAC 28:LXXXIII.3303]**

A. Reconfigured schools are identified as schools that change grade configuration, combine two schools with separate site codes into one school with a single site code, or divide one school into two separate schools with different site codes. Data collected at one site shall not be moved to another site and included in accountability results except when two or more schools with dissimilar configurations combine to create one school.

B. Prior to any reconfiguration, the LDE will review the changes to school sites in the planned reconfiguration and will consult with the LEA on the effects that the reconfiguration will have on rewards and/or academically unacceptable (AUS) or subgroup performance. After this consultation, the LDE shall make all decisions regarding the effects of these changes on rewards, AUS or subgroup performance, and sanctions for all schools effected by the changes and will notify the LEA of its decision. AUS status and eligibility for participating in any specific programs shall be determined by the LDE.

C. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 31:2765 (November 2005), LR 33:2600 (December 2007), LR 36:1993 (September 2010), LR 37:3201 (November 2011), LR 38:3114 (December 2012), LR 40:1318 (July 2014), LR 44:

**Chapter 39. Inclusion of Students with Disabilities**

**§3901. Assessment of Students with Disabilities**
**[Formerly LAC 28:LXXXIII.3901]**

A. All students, including those with disabilities, shall participate in Louisiana's testing program. The scores of all students who are eligible to take the 3-8 or high school LEAP 2025, EOC assessments, ACT, LAA 1, LEAP connect, or Louisiana English language proficiency test (ELPT) shall be included in the calculation of the SPS. Students with disabilities shall take the assessments with accommodations, if required by their individualized education program (IEP).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 31:2763 (November 2005), LR 36:1994 (September 2010), LR 38:3115 (December 2012), LR 40:2508 (December 2014), LR 44:

**§3903. LEAP Alternate Assessment Participation Criteria**
**[Formerly LAC 28:LXXXIII.3903]**

A. Students with disabilities participating in the LEAP alternate assessment level 1 (LAA 1) or LEAP connect must meet specific participation criteria as stated in *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 31:2763 (November 2005), LR 40:2508 (December 2014), LR 44:

**§3905. Inclusion of Alternate Assessment Results**
**[Formerly LAC 28:LXXXIII.3905]**

A. All SPS shall include LAA 1 or LEAP connect scores.

B. Each LAA 1 or LEAP connect exam will be assigned one of four achievement levels and each achievement level will be assigned points for use in assessment index calculations as follows.

| LAA 1 or LEAP Connect Performance Level | Assessment Points |
|---|---|
| Exceeds Standard or Level 4: High Complexity | 150 |
| Meets Standard or Level 3: Moderate Complexity | 100 |
| Level 2: Low Complexity | 80 |
| Working Toward Standard or Level 1: Low Complexity | 0 |

1. Students taking LAA 1 or LEAP connect exams shall be included in accountability calculations at the grade level in which they are enrolled in the student information system (SIS).

C. Students participating in LEAP alternate assessment level 1 (LAA 1) or LEAP connect will be assigned scores of zero in SPS calculations if they do not meet the specific participation criteria as stated in *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:767 (April 2004), LR 31:2763 (November 2005), LR 33:254 (February 2007), LR 35:2031 (October 2008), LR 35:640 (April 2009), LR 35:641 (April 2009), LR 38:3115 (December 2012), LR 40:2508 (December 2014), LR 44:

**Chapter 40. Definitions Related to English Proficiency**

**§4001. Proficient in English**
**[Formerly LAC 28:LXXXIII.4001]**

A. To be considered English proficient and exit English language learner (ELL) status, an ELL student must score Level 4 (Early Advanced) or Level 5 (Advanced) on all four ELPT domains: Speaking, Listening, Reading, and Writing.

B. Students with disabilities who are unable to meet the above exit criteria after four years or more in ELL status because of their disability, as decided only by consensus of the members of the school building level committee (SBLC), may be exited from ELL status, but will still be required to take statewide assessments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 33:254 (February 2007), LR 34:2552 (December 2008), LR 36:2243 (October 2010), LR 38:3115 (December 2012), LR 44:

**§4003. Making Progress in Learning English**
**[Formerly LAC 28:LXXXIII.4003]**

A. Making progress in learning English will be defined by BESE following the first administration of the ELPT assessment in the 2017-2018 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 30:767 (April 2004), amended LR 36:2244 (October 2010), LR 44:

**§4005. English Language Proficiency Descriptors**
**[Formerly LAC 28:LXXXIII.4005]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), LR 44:

**Chapter 41. Data Collection and Data Verification**

**§4104. Data Validation**
**[Formerly LAC 28:LXXXIII.4104]**

A. The LDE may review and validate attendance, dropout, graduation, discipline, accountability code and exit code data:

A.1. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1029 (June 2006), amended LR 38:3116 (December 2012), LR 44:

**Chapter 43. District Accountability**

**§4301. Inclusion of All Districts**
**[Formerly LAC 28:LXXXIII.4301]**

A. - B.2. …

C. District Performance Score (DPS). A district performance score (DPS) shall be calculated in the same manner as a combination school performance score, aggregating all of the students in the district.

1. Data from students enrolled in a district for a full academic year shall be used to calculate the DPS, to include all indices for which data are available.

2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2755 (December 2003), amended LR 30:1446 (July 2004), LR 32:543 (April 2006), LR 37:2119 (July 2011), LR 38:3116 (December 2012), LR 40:760 (April 2014), LR 40:1318 (July 2014), LR 44:

**§4310. Subgroup Component AYP (Adequate Yearly Progress)**
**[Formerly LAC 28:LXXXIII.4310]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:1029 (June 2006), amended LR 33:635 (April 2007), LR 34:429 (March 2008), LR 34:868 (May 2008), LR 36:1994 (September 2010), LR 40:2509 (December 2014), LR 44:

**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 Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 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 noon, January 9, 2018, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an indeterminable impact for local school districts as a result of the changes to the methodology used to calculate school performance scores (SPS). Per the state accountability system, potential implications for schools which are labeled academically in crisis or failing include increased resource needs for evidence based intervention and improvement programs; increased potential for students to enroll at other public and non-public schools; increased competition from charter schools; as well as increased risk of takeover by the state Recovery School District. There may be increased costs for the Department of Education (LDE) as the proposed changes require increased involvement by the LDE for schools that do not make progress on improvement plans. These costs are indeterminable at this time and will depend upon the type and extent of intervention and supports provided.

The School Performance Score formula is being revised. In addition to the assessment index, it will include a growth index, a dropout, and an interest and opportunities index (which has not yet been defined). The overall grading scale will be adjusted beginning in 2018, again in 2022 and return to the 2013 baseline ranges in 2025. The number of index points associated with each of the five achievement levels (Advanced, Mastery, Basic, Approaching Basic, and Unsatisfactory) is being reduced. (Proposed changes to Bulletin 118 associated with these calculations increases the number of achievement levels from four to five and adjusts scaled score ranges for these levels.) Furthermore, the measure of progress to English language proficiency for English learners will be counted in equal weight to all other exams. Index points for ACT composite scores and Workkeys are reduced; index points for the number of Carnegie Units are also being revised.

When compared to the most recent school performance scores, the projected 2018 results indicate the following: 38% reduction in the number of "A" rated schools; 15% increase in "B" schools; 13% increase in "C" schools; 25% reduction in "D" schools; and a 57% increase in the number of schools rated "F". Similar comparisons for 2019 are as follows: 26% reduction in the number of "A" rated schools; 17% increase in "B" schools; 9% increase in "C" schools; 27% reduction in "D" schools; and a 38% increase in the number of schools rated "F". When compared to 2017 scores, the projected 2020 results indicate the following: 16% reduction in the number of "A" rated schools; 17% increase in "B" schools; 5% increase in "C" schools; 28% reduction in "D" schools; and a 25% increase in the number of schools rated "F".

Furthermore, subgroup performance scores will now be calculated for each school and district for each major racial and ethnic group, as well as other specified student groups (such as students with disabilities and economically disadvantaged). Subgroup scores equivalent to an "F" letter grade for two

consecutive years will result in a "B" letter grade for schools which would otherwise earn an "A" grade. Proposed changes further create new categories of Urgent Intervention Needed, Urgent Intervention Required, and Comprehensive Intervention Required. Schools assigned ratings of Urgent Intervention Required and/or Comprehensive Intervention Required based on overall grade, subgroup performance grades, excessive out of school suspensions, or certain cohort graduation rates will be required to develop a plan that describes goals, strategies, and monitoring processes that will be used to address identified deficiencies. Notwithstanding the availability of competitive grant funds from the LDE as described below, districts will be required to invest significant resources to design and implement these intervention strategies. The LDE estimates approximately 76% of all schools would be identified as "Urgent Intervention Needed" in at least one subgroup, and 28% of schools would be identified as "Urgent Intervention Required" for at least one subgroup in 2018.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Schools may be eligible for School Redesign Grants. The US Department of Education requires states to utilize 7% (approximately $20 M) of the Title I allocation for school improvements. The LDE proposes awarding a significant portion of these funds to make competitive grants to local school districts and charter schools. These competitive grants will be awarded by the LDE which will evaluate requests for funding based on plans which address curriculum, assessment, and teacher professional development and which must ensure access to advanced coursework, career education, and strong academic counseling. Schools' plans need to address early and accurate identification and aligned interventions for English language learners, special education students, and other struggling student groups. Finally, LDE recommends districts with five or more struggling schools create improvement zones led by a single district leader that concentrates resources and capacity, including implementation of a unified enrollment system/and or a shifting of attendance zones. Additionally, systems can offer specialized and/or additional programs, or choice in the form of charter schools.

To the extent enrollment at traditional public schools is impacted, state per pupil funding allocations from the Minimum Foundation Program (MFP) could be reduced.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Public charter schools will experience similar impacts to those identified for traditional public schools.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The LDE believes local school districts will raise the bar in order to achieve the new accountability scores, which ultimately will be beneficial to students, ensuring they are learning at higher levels.

School district Superintendents have expressed concerns that districts which experience lower school performance scores as a result of the changes may have difficulty attracting high quality teachers. Further, that lower scores may affect taxpayers' confidence in the local school system, making it harder for districts to generate support for changes in property millages and sales taxes which accrue to the district.

Lower scores may also lead to parental decisions to move students out of traditional public schools to public charters, non-public schools, home-schooling, or participation in the state voucher or student tuition donation program.

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## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices (LAC 28:XI.51-85)

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 (BESE) approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices*: §5105. Testing and Accountability; §5107. Assessment Programs; §5109. Assessment Populations; §5305.Test Security Policy; §5307. Change of District Test Coordinator Notification; §5309. Erasure Analysis and Online Answer Changes; §5311. Addressing Suspected Violations of Test Security and Troubling Content in Written Responses; §5312. Administrative Error; §5315. Emergencies during Testing; §5501. District Test Coordinator Role; §5511. School Test Coordinator Role; §5701. Overview of Assessment Programs in Louisiana; §5901. Statement of Purpose; §5903. Definitions; §5905. Target Population; §5907. Agency Administrative Participation; §6101. Introduction; §6113. Achievement Levels; §6115. Performance Standards; §6155. Student Membership Determination; §6301. Introduction; §6311. Achievement Levels; §6313. Performance Standards; §6323. Introduction; §6325. Grade 10 Achievement Level Descriptors; §6327. Grade 11 Achievement Level Descriptors; §6345. Double Jeopardy Rule; §6347. First and Second Cohorts; §6348. Last Cohorts; §6501. Description; §6700. Sunset Provision; §6701. Introduction; §6705. Introduction; §6707. Performance Standards; §6801. Overview; §6803. Introduction; §6804. EOCT Development and Implementation Plan; §6811. LEAP 2025 for High School Achievement Levels; §6813. Performance Standards; §6819. Double Jeopardy Rule; §6821. High School Test Cohorts; §6825. LEAP 2025 for High School Administration Rules; §6827. LEAP 2025 Retest Administration; §6829. LEAP 2025 Transfer Rules; §6831. College and Career Diploma; §6900. Sunset Provision; §6903. Introduction; §6911. LEAP Connect Achievement Levels; §6913 Performance Standards; §7000. Sunset Provision; §7001. Introduction; §7005. Achievement Levels; §7007. Performance Standards; §7009. Introduction; §7017. Grade 10 Achievement Level Descriptors; §7019. Grade 11 Achievement Level Descriptors; §7021. Content Standards; §7023. English Language Arts Tests Structure; §7025. Mathematics Test Structure; §7027. Science Tests Structure; §7029. Social Studies Tests Structure; §7031. Double Jeopardy Rule; §7033. Rescores; §7035. LAA 2 High School Assessment Administration Rules; §7037. Summer Retest Administration; §7041. Student Membership Determination; §7101. General Provisions; §7203. EXPLORE; §7205. PLAN; §7209. WorkKeys; §7301. Overview; §7303. Introduction; §7307. Participation Criteria; §7309. Proficiency Levels; §7311. Proficiency Standards; §7400. Sunset Provision; §7501. General Provisions; §7503. Field Test Administration; §7901. General Provisions; §7903. Performance Standards; §7905. Transfer Students; §7907. Student Membership Determination; §8101. Special Education Needs; §8301. Participation; §8303. Students with Disabilities; §8305.

Students with One or More Disabilities According to Section 504; §8306. Approved Accommodations for Students with IEPs or 504 Plans; §8307. English Language Learners; §8503. Homebound Students; and §8507. Office of Juvenile Justice.

**Title 28**
**EDUCATION**
**Part XI. Accountability/Testing**
**Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices**
**Chapter 51. General Provisions**

**§5105. Testing and Accountability**
**[Formerly LAC 28:CXI.105]**

A. Every school shall participate in a school accountability system based on student achievement as approved by the SBESE.

B. All LEAs must administer all assessments according to the testing schedule dates approved by SBESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 33:255 (February 2007), LR 44:

**§5107. Assessment Programs**
**[Formerly LAC 28:CXI.107]**

A. Kindergarten Developmental Readiness Screening Program (KDRSP). Each school district is required to administer an approved entry assessment instrument to each child entering kindergarten for the first time, with the results to be used for placement and planning instruction.

B. Louisiana Educational Assessment Program (LEAP) 2025. Criterion-referenced tests in English language arts, mathematics, science, and social studies in grades 3-8 and end-of-course tests in English I, English II, algebra, geometry, biology and U.S. history in high school assess student performance relative to specific benchmarks established in the state's content standards and provide data for evaluating student, school, and district performance. The tests assess a student's complex thinking skills as well as knowledge and application of information. These assessments will be administered to high school students enrolled in and/or receiving credit for a high school course having a LEAP assessment or retesting for the purposes of graduation.

C. LEAP Alternate Assessment, Level 1 (LAA 1)/LEAP Connect. The LAA 1/LEAP Connect is an assessment that evaluates each eligible special education student's knowledge and skills in targeted areas.

D. English Language Proficiency Test (ELPT). The ELPT is an assessment program designed to measure proficiency in reading, writing, speaking, and listening of English Learners.

E. National Assessment of Educational Progress (NAEP). Also known as the nation's report card, NAEP is administered nationally to a random stratified sample population of students to gather data about subject-matter achievement, instructional experiences, and school environment.

F. Field Tests. Representative student populations from school districts throughout Louisiana are chosen to field test new items to be used in future statewide assessments. The items are tested, scored, ranked statistically, and identified as effective or ineffective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 36:477 (March 2010), LR 40:2509 (December 2014), LR 44:

**§5109. Assessment Populations**
**[Formerly LAC 28:CXI.109]**

A. Classified Populations

1. …

* * *

2. Regular Education Students. These are students who have not been identified as eligible for special education and related services under the Individuals with Disabilities Education Act.

3. Students with Disabilities. These are students who have been evaluated in accordance with CFR 300.530-300.536 and are receiving special education and related services as a result of an intellectual disability, a hearing disability including deafness or hearing loss, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (hereafter referred to as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities (*Federal Register*, Vol. 64, No. 48).

4. Gifted and Talented Students. These are students who have been identified as possessing demonstrated or potential abilities that give evidence of high-performing capabilities in intellectual, creative, specific academic or leadership areas, or ability in the performing or visual arts and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;

5. Section 504 Students. These are students with one or more disabilities according to the regulations for Section 504 of the Rehabilitation Act of 1973, which defines disability as a physical or mental impairment which substantially limits one or more major life activities.

6. English Learners. These are students who are aged 3 through 21; who were not born in the United States or whose native language is a language other than English; who are Native Americans or Alaska Natives or native residents of the outlying areas and come from an environment where a language other than English has had significant impact on their level of English language proficiency; or who are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny them:

a. the ability to meet the state's proficient level of achievement on state assessments;

b. the ability to successfully achieve in classrooms where the language of instruction is English; or

c. the opportunity to participate in society.

B. - B.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1527 (July 2005), amended LR 33:255 (February 2007), LR 44:

**Chapter 53. Test Security**

**§5305. Test Security Policy**
**[Formerly LAC 28:CXI.305]**

A. - A.2.b. …

c. statewide schools authorized through acts of the Louisiana legislature.

d. - e. …

f. participating nonpublic/other schools that utilize tests administered through the SBESE or the LDE.

3. - 3.f.iv. …

g. administer published parallel, previously administered, or current forms of any statewide assessment;

h. …

i. conduct testing in environments that differ from the usual classroom environment without prior written permission from the LDE except for the purpose of providing accommodations;

j. fail to report any testing irregularities to the district test coordinator (a testing irregularity is any incident in test handling or administration that leads to a question regarding the security of the test or the accuracy of the test data), who must report such incidents to the LDE;

k. participate in, direct, aid, counsel, assist in, encourage, or fail to report any of the acts prohibited in the section.

4. Each local education agency (LEA) as described in this policy shall develop and adopt a LEA test security policy and procedures for handling emergencies during testing that is in compliance with the state's test security policy. The LDE shall audit LEA test security policies every three years to ensure compliance with all aspects of Bulletin 118. The policy shall provide:

4.a. - 5.b. …

c. Interviews regarding testing administration and security procedures shall be conducted with the principal, school test coordinator(s), test administrator(s), and proctor(s) at the identified schools. All individuals who had access to the test materials at any time must be interviewed, when necessary.

5.d. - 9.b. …

c. Any discrepancies noted in the serial numbers of test booklets, answer documents, and any supplementary secure materials, or the quantity received from contractors must be reported to the LDE by the designated institutional or school district personnel prior to the administration of the test.

d. - e. …

f. Each district superintendent or institution must annually designate one individual in the district or institution as district test coordinator, who is authorized to procure test materials that are utilized in testing programs administered by or through the SBESE of the LDE. The name of the individual designated must be provided in writing to the LDE, and included on the Statement of Assurance.

g. Testing shall be conducted in class-sized groups. Bulletin 741 (913A) states that K-3 classroom enrollment should be no more than 26 students, and in grades 4-12, no more than 33, except in certain activity types of classes in which the teaching approach and the material and equipment are appropriate for large groups. For grades K-8, the maximum class size for Health and Physical Education classes may be no more than 40. Class size for exceptional students is generally smaller Bulletin 741, (915). Permission for testing in environments that differ from the usual classroom environment must be obtained in writing from the LDE at least 30 days prior to testing. If testing outside the usual classroom environment is approved by the LDE, the school district must provide at least one proctor for every 30 students.

h. The state superintendent of education may disallow test results that may have been achieved in a manner that is in violation of test security.

10 - 10.c. …

d. excessive wrong-to-right answer changes;

10.e. - 17. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7(C)(G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:431 (March 2008), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 37:858 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:747 (March 2012), LR 39:1018 (April 2013), LR 40:2510 (December 2014), LR 43:634 (April 2017), LR 44:

**§5307. Change of District Test Coordinator Notification**
**[Formerly LAC 28:CXI.307]**

A. If during the academic year the person appointed as district test coordinator changes, the district superintendent must notify the LDE. The notification must be in writing and must be submitted within 15 days of the change in appointment.

1. The former district test coordinator must inform the new district test coordinator of the location of placement tests and other relevant testing materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 43:634 (April 2017), LR 44:

**§5309. Erasure Analysis and Online Answer Changes**
**[Formerly LAC 28:CXI.309]**

A. To investigate erasures on student answer documents of the state testing programs, the SBESE and the LDE have developed the following procedures.

1. - 7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 35:217 (February 2009), LR 35:443 (March 2009), LR 40:2512 (December 2014), LR 43:634 (April 2017), LR 44:

**§5311. Addressing Suspected Violations of Test Security and Troubling Content in Written Responses**
**[Formerly LAC 28:CXI.311]**

A. - A.1.d. …

2. Reported Violations by School Personnel or Other Persons. All suspected instances of cheating should be reported directly to the school's district test coordinator (DTC) for further investigation, and a report of the incident must be sent by the DTC to LDE. If it is deemed necessary

to void tests, the DTC must submit a completed void form to the LDE. The original Void Verification form along with a written report of the investigation carried out must be mailed to the LDE.

3. Suspected Violations Discovered by Scoring Contractors

a. In addition to erasure analysis for multiple-choice and multi-select items, possible incidents of the following violations may be discovered during the scoring process:

i. …

ii. use of unauthorized materials, including cell phones or other unauthorized electronic devices. Students brought unauthorized materials into the testing environment and used them to assist in written responses;

3.a.iii. - 4.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1531 (July 2005), amended LR 33:257 (February 2007), LR 35:217 (February 2009), LR 43:635 (April 2017), LR 44:

**§5312. Administrative Error**
**[Formerly LAC 28:CXI.312]**

A. Administrative errors that result in questions regarding the security of the test or the accuracy of the test data are considered testing irregularities. If it is deemed necessary to void the test, the district test coordinator must submit a completed void form to the LDE, as directed in the *District and School Test Coordinators Manual*.

B. If tests are voided by the district due to administrative error, the LEA superintendent, on behalf of individual students, must initiate a request to the state superintendent of education for an opportunity to retest prior to the next scheduled test administration on behalf of individual students.

C. If the LDE determines that an administrative error that allows for a retest did occur the tests will be voided. LDE will notify the LEA of the determination and of arrangements for the retest. The LEA must provide a corrective plan of action.

D. To offset costs involved in retesting, the vendor will assess the LEA a fee for each test.

E. The LDE will provide a report to the SBESE of retests due to administrative errors.

F. Administrative errors on tests that result from failure to transfer answers from a test form onto an answer form require the following steps:

1. the LEA superintendent will place a request on behalf of individual students, which request must include a description of the administrative error and a corrective plan of action, to the state superintendent of education to have the testing vendor send to the district the student's test booklet and a new answer document;

2. the DTC and STC will transfer only the answers not initially transferred from the test booklet onto the new answer document; and

3. the DTC will return all testing materials to the vendor, who will assess the LEA a fee for the service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:390 (March 2006), amended LR 33:257 (February 2007), LR 34:66 (January 2008), LR 34:1351 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 38:33 (January 2012), amended LR 38:748 (March 2012), LR 38:2358 (September 2012), LR 40:2512 (December 2014), LR 44:

**§5315. Emergencies during Testing**
**[Formerly LAC 28:CXI.315]**

A. For emergencies (e.g., fire alarms, bomb threats) that require evacuation of the classroom during administration of statewide assessments, the following procedures should be followed.

1. If the room can be locked, the test administrator should direct the students to pause a computer-based test or place the answer document inside the test booklet and leave both on the desk for paper-based tests. For computer-based tests, students will resume the test after returning to the classroom. For paper-based tests, before students are allowed back into the room, the test administrator should return to the room, pick up the test booklets, answer documents, and other secure materials, and then distribute them individually to the students when they have returned to their desks.

2. - 7. …

B. Online Testing Emergency Plan

1. - 2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:258 (February 2007), LR 34:66 (January 2008), LR 35:218 (February 2009), LR 37:858 (March 2011), LR 38:33 (January 2012), LR 44:

**Chapter 55. Test Coordinator Responsibilities**

**Subchapter A. District Test Coordinator**

**§5501. District Test Coordinator Role**
**[Formerly LAC 28:CXI.501]**

A.1 - A.1.c. …

2. Specific tasks include:

a. coordinating with the district data coordinator to ensure the enrollment data are submitted by the yearly deadline;

b. - d. …

e. coordinating with the district Section 504, English learner, and special education coordinators the submission of student Section 504, English Language Learner, and IEP data to the student information system (SIS) and/or special education reporting system (SER);

f. - i. …

j. maintaining the security of test materials immediately upon receipt of testing materials, including materials used for computer-based tests, from testing contractors and from schools;

k. - r. …

s. maintaining the district password and all school passwords within the district that are used with assessment and data systems;

t. training district and school users within a district to effectively use the systems; ensure they are familiar with the Family Educational Rights and Privacy Act (FERPA) law governing confidentiality of student records, and ensure they have signed a security agreement before receiving a password for access to assessment and data systems;

u. ensuring:

i. that all district/school users maintain the security of and access to all student information obtained via assessment and data systems;

ii. that all school users are aware that student test data shall not be disclosed to anyone other than another school official and only for a legitimate educational purpose.

v. confirming that Test Administrator numbers have been assigned at each school for each scheduled test administration;

w. - x. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007), LR 34: 1352 (July 2008), LR 34:2552 (December 2008), repromulgated LR 35:57 (January 2009), amended LR 35:218 (February 2009), LR 38:748 (March 2012), LR 44:

**Subchapter B. School Test Coordinator**

**§5511. School Test Coordinator Role [Formerly LAC 28:CXI.511]**

A. - A.2. …

3. making arrangements to test students with accommodations or accessibility features when needed;

4. - 6. …

7. ensuring the security of testing materials;

8. - 11. …

12. compiling a list of students approved for accommodations, with the accommodations they are to receive, and providing a list of such students in a testing group to individual test administrators;

13. verifying that classrooms have been prepared for testing (test-related content material removed or covered, sufficient space for students, testing sign on door);

14. distributing materials to test administrators on the appropriate testing day and collecting, checking in and putting into the secure storage area all secure testing materials at the end of each day of testing and during any extended breaks;

15. monitoring testing sessions;

16. supervising test administrators who must transfer student answers from large-print, braille, or other accommodation formats to a scorable test form;

17. collecting and returning any computer disks or other accommodation-format testing materials;

18. reporting any testing irregularities to the district test coordinator; and

19. packaging test materials as instructed in the manuals for return to the district test coordinator;

20. assigning TA numbers before scheduled test administrations;

21. distributing student reports and summary reports to teachers and parents in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007), LR 34:1352 (July 2008), LR 34:2552 (December 2008), repromulgated LR 35:57 (January 2009), amended LR 44:

**Chapter 57. Assessment Program Overview**

**§5701. Overview of Assessment Programs in Louisiana [Formerly LAC 28:CXI.701]**

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

| Name of Assessment Program | Assessment Population | Administered |
|---|---|---|
| **Kindergarten Screening** | | |
| Kindergarten Developmental Readiness Screening Program (KDRSP) | Kindergarten | fall 1987- |
| **Norm-Referenced Tests (NRTs)** | | |
| California Achievement Test (CAT/F) | grades 4, 6, and 9 | spring 1988-spring 1992 (no longer administered) |
| California Achievement Test (CAT/5) | grades 4 and 6 grade 8 | spring 1993-spring 1997 spring 1997 only (no longer administered) |
| Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M) | grades 4, 6, 8, 9, 10, and 11 | spring 1998 (no longer administered) |
| ITBS ITED (form M) | grades 3, 5, 6, and 7 grade 9 | spring 1999-spring 2002 (no longer administered) |
| ITBS ITED (form B) | grades 3, 5, 6, and 7 grade 9 | spring 2003-spring 2005 (no longer administered) |
| ITBS | grade 2 | spring 2012-spring 2013 (no longer administered) |
| **Criterion-Referenced Tests (CRTs)** | | |
| National Assessment of Educational Progress (NAEP) | grades 4, 8, and 12 | spring 1990- |
| Louisiana Educational Assessment Program (LEAP) | grades 3, 5, and 7 | spring 1989-spring 1998 (no longer administered) |
| Graduation Exit Examination (“old” GEE) | grades 10 and 11 | spring 1989-spring 2003 (state administered) fall 2003- (district administered) |
| Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics) | grades 4 and 8 | spring 1999-2014 |
| LEAP (Science and Social Studies) | grades 4 and 8 | spring 2000–2016 Social Studies spring 2000- Science |
| LEAP 2025 (ELA, Mathematics) | grades 3-8 | Spring 2015- |
| LEAP 2025 (Science) | | Spring 2019 - |
| LEAP 2025 (Social Studies) | grades 3-8 | Spring 2017- |
| Graduation Exit Examination (GEE) (ELA and Mathematics) | grade 10 | spring 2001-fall 2014 (district administered) |
| GEE (Science and Social Studies) | grade 11 | spring 2002-fall 2014 (district administered) |

| Name of Assessment Program | Assessment Population | Administered |
|---|---|---|
| End-Of-Course Tests (EOCT) | Algebra I | fall 2007-Summer 2017 |
| EOCT | English II | fall 2008- Summer 2017 |
| EOCT | Geometry | fall 2009 -Summer 2017 |
| EOCT | Biology | fall 2010-Spring 2018 |
| EOCT | Applied Algebra I form | spring 2011-summer 2013 |
| EOCT | English III | fall 2011- summer 2017 (available for students who have entered a high school cohort prior to 2017-2018 school year) |
| EOCT | U. S. History | fall 2012-2017 (continued for graduating seniors and retesters in 2017-2018 only) |
| EXPLORE | grades 8 and 9 | spring 2013-2015 |
| PLAN | grade 10 | spring 2013-2015 |
| ACT | grade 11 | spring 2013- |
| LEAP 2025 | English I<br>English II<br>US History<br>Geometry<br>Algebra | fall 2017- |
| **Integrated NRT/CRT** | | |
| Integrated Louisiana Educational Assessment Program (iLEAP) (science and social studies) | grades 3, 5, 7 | spring 2006-2017 |
| *i*LEAP (ELA and math) | Grades 3, 5, 7, and 9 | spring 2006-2014 (grades 3, 5, 7) spring 2006-2010 (grade 9) |
| **Special Population Assessments** | | |
| LEAP Connect | Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11 | ELA and Math Grades 3 to 8:. Spring 2018- ELA and Math Grade 11:. Spring 2019 - |
| Louisiana Alternate Assessment, Level 1 (LAA 1) | Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11 | spring 2000-2007 |
| LAA 1 | ELA and Mathematics (grade spans 3-4; 5-6; 7-8; 9-10); Science (grades 4, 8, and 11) | Revised spring 2008-2017 (ELA and Math) (available for high school students who need to participate in 2017-2018 only) Spring 2008-present (Science) |
| LAA 1<br>ELA and Mathematics | grade 9 | spring 2010-Spring 2010 (last administration of grade 9 LAA 1) |

| Name of Assessment Program | Assessment Population | Administered |
|---|---|---|
| Louisiana Alternate Assessment, Level 2 (LAA 2)<br>ELA and Mathematics<br>(Grades 4 and 8) | grades 4, and 8 | spring 2006-spring 2014 (no longer administered) |
| LAA 2<br>ELA and Mathematics<br>(Grade 10)<br>Science and Social Studies<br>(Grade 11) | grades 10 and 11 | spring 2006- (available for students who have entered a high school cohort in 13-14 or prior) |
| LAA 2<br>ELA and Mathematics | grades 5, 6, and 7 | spring 2007-spring 2014 (no longer administered) |
| LAA 2<br>ELA and Mathematics | grade 9 | spring 2010 (last state administration of grade 9 LAA 2) |
| LAA 2<br>Science and Social Studies | grades 4 and 8 | spring 2008–spring 2014 (no longer administered) |
| Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test] | Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3-11. | spring 1999–spring 2003 (no longer administered) |
| English Language Proficiency Test (ELPT) | Limited English Proficient (LEP) students in grades K-12 | Spring 2018- |
| English Language Development Assessment (ELDA) | Limited English Proficient (LEP) students in grades K-12 | spring 2005-2017 |
| Academic Skills Assessment (ASA) and ASA LAA 2 form | Students pursuing a State-Approved Skills Certificate (SASC) or GED | spring 2012 (one administration only, spring 2012) |

B. As a result of these initiatives, the SBESE in May, 1997 approved content standards in English language arts, mathematics, science, social studies, foreign languages, and the arts. The LDE initiated new criterion-referenced tests to align with these standards. In the 1997 Regular Session of the Louisiana Legislature, the state law was changed to require that criterion-referenced tests be given in grades 4 and 8 rather than in grades 3, 5, and 7. In spring 2002, the new state criterion-referenced tests at grades 4, 8, 10, and 11 were completely phased in and previous criterion-referenced tests were phased out.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), LR 38:34 (January 2012), LR 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:1319 (July 2014), LR 40:2512 (December 2014), LR 44:

## Chapter 59. Kindergarten Entry Assessment

### §5901. Statement of Purpose

**[Formerly LAC 28:CXI.901]**

A. This Chapter provides for the implementation of a kindergarten entry assessment to identify children's

developmental levels as required by Act 146, Regular Session, 1986. Activities conducted under this Chapter shall be coordinated with other forms of assessment conducted by the school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(1)(b).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1535 (July 2005), amended LR 44:

**§5903. Definitions**
**[Formerly LAC 28:CXI.903]**

*Developmental Levels*—a set of skills or specific tasks that most children can do at a certain age range.

*Kindergarten Entry Assessment*—the process of identifying the developmental levels of kindergarten children through gathering of information concerning their social-emotional, language and literacy, math, cognitive, and physical development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.11, R.S. 17.24.4(F)(1)(b), and R.S. 17:151.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1535 (July 2005), amended LR 44:

**§5905. Target Population**
**[Formerly LAC 28:CXI.905]**

A. Every child entering public school kindergarten for the first time shall be assessed with a research-based, standards-aligned assessment. If a student is identified as having a disability according to Bulletin 1508 and has a current multidisciplinary evaluation, he or she shall not be excluded from this assessment. The results of the assessment shall not exclude any child who meets the age requirements from entering public school kindergarten.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3, R.S. 17:1941, and USCS §1400 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1535 (July 2005), amended LR 44:

**§5907. Agency Administrative Participation**
**[Formerly LAC 28:CXI.907]**

A. Kindergarten Entry Assessments. Each school district shall select and administer one assessment from among those recommended by the LDE and approved by the SBESE. The results of this assessment shall be used with the goals of informing efforts to close the school readiness gap at kindergarten entry and informing instruction and services to support children's success in school.

B. Administrative Timelines

1. Each school district shall submit to the LDE by the date established by the LDE and annually thereafter the name of the assessment selected for system-wide use by the local school board for the purpose of program implementation.

2. Beginning with the 1987-1988 academic year and annually thereafter, assessment administration and reporting shall occur by September 30.

C. Parental Advisement. Beginning with the 1987-1988 academic year and annually thereafter, school districts shall inform the parent or guardian of the results of the individual student's performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq., and R.S. 17:139 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1535 (July 2005), amended LR 44:

## Chapter 61. Louisiana Educational Assessment Program 2025 (LEAP 2025)

### Subchapter A. General Provisions

**§6101. Introduction**
**[Formerly LAC 28:CXI.1101]**

A. The LEAP 2025 is a criterion-referenced testing program that is directly aligned with the state content standards, which by law are as rigorous as those of NAEP. The LEAP measures how well students in grades three through eight have mastered the state content standards. Test results are reported in terms of achievement levels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(1)(c).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 32:235 (February 2006), LR 44:

### Subchapter B. Achievement Levels and Performance Standards

**§6113. Achievement Levels**
**[Formerly LAC 28:CXI.1113]**

A.1. - A.2. …

B. Achievement Level Definitions

1. *Advanced (Proficient)*—students performing at this level have exceeded college and career readiness expectations, and are well prepared for the next level of studies in this content area.

2. *Mastery (Proficient)*—students performing at this level have met college and career readiness expectations, and are prepared for the next level of studies in this content area.

3. *Basic*—students performing at this level have nearly met college and career readiness expectations, and may need additional support to be fully prepared for the next level of studies in this content area.

4. *Approaching Basic*—students performing at this level have partially met college and career readiness expectations, and will need much support to be prepared for the next level of studies in this content area.

5. *Unsatisfactory*—students performing at this level have not yet met the college and career readiness expectations, and will need extensive support to be prepared for the next level of studies in this content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.24.4(F)(1) and (C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 42:225 (February 2016), LR 44:

**§6115. Performance Standards**
**[Formerly LAC 28:CXI.1115]**

A. Performance standards for LEAP English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form. The scaled scores range between 100 and 500 for science and between 650 and 850 for English language arts, mathematics, and social studies.

| English Language Arts | | | | | | |
|---|---|---|---|---|---|---|
| **Achievement Level** | **Grade 3** | **Grade 4** | **Grade 5** | **Grade 6** | **Grade 7** | **Grade 8** |
| Advanced | 810 – 850 | 790 – 850 | 799 – 850 | 790 – 850 | 785 – 850 | 794 – 850 |
| Mastery | 750 – 809 | 750 – 789 | 750 – 798 | 750 – 789 | 750 – 784 | 750 – 793 |
| Basic | 725 - 749 | | | | | |
| Approaching Basic | 700 – 724 | | | | | |
| Unsatisfactory | 650 - 699 | | | | | |
| **Mathematics** | | | | | | |
| **Achievement Level** | **Grade 3** | **Grade 4** | **Grade 5** | **Grade 6** | **Grade 7** | **Grade 8** |
| Advanced | 790 – 850 | 796 – 850 | 790 – 850 | 788 – 850 | 786 – 850 | 801 – 850 |
| Mastery | 750 – 789 | 750 – 795 | 750 – 789 | 750 – 787 | 750 – 785 | 750 – 800 |
| Basic | 725 – 749 | | | | | |
| Approaching Basic | 700 – 724 | | | | | |
| Unsatisfactory | 650 – 699 | | | | | |
| **Science (to be updated in 2019)** | | | | | | |
| **Achievement Level** | ***i*LEAP Grade 3** | ***i*LEAP Grade 4** | ***i*LEAP Grade 5** | ***i*LEAP Grade 6** | **iLEAP Grade 7** | ***i*LEAP Grade 8** |
| Advanced | 382 – 500 | 405 – 500 | 378 – 500 | 380 – 500 | 388 – 500 | 400 – 500 |
| Mastery | 342 – 381 | 360 – 404 | 341 – 377 | 343 – 379 | 348 – 387 | 345 – 399 |
| Basic | 292 – 341 | 306 – 359 | 292 – 340 | 295 – 342 | 302 – 347 | 305 – 344 |
| Approaching Basic | 249 – 291 | 263 – 305 | 248 – 291 | 251 – 294 | 259 – 301 | 267 – 304 |
| Unsatisfactory | 100 – 248 | 100 – 262 | 100 – 247 | 100 – 250 | 100 – 258 | 100 – 266 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 32:235 (February 2006), LR 42:225 (February 2016), LR 44:

### §6155. Student Membership Determination [Formerly LAC 28:CXI.1155]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1547 (July 2005), repealed LR 44:

## Chapter 63. Graduation Exit Examination

## Subchapter A. General Provisions

### §6301. Introduction [Formerly LAC 28:CXI.1301]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(1)(c).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), amended LR 32:236 (February 2006), LR 40:2513 (December 2014), repealed LR 44:

## Subchapter B. Achievement Levels and Performance Standards

### §6311. Achievement Levels [Formerly LAC 28:CXI.1311]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (1) and (C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), repealed LR 44:

### §6313. Performance Standards [Formerly LAC 28:CXI.1313]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4 (A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), amended LR 32:237 (February 2006), repealed LR 44:

## Subchapter C. GEE Achievement Level Descriptors

### §6323. Introduction [Formerly LAC 28:CXI.1323]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4 (B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), repealed LR 44:

### §6325. Grade 10 Achievement Level Descriptors [Formerly LAC 28:CXI.1325]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4 (A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), amended LR 36:974 (May 2010), repealed LR 44:

### §6327. Grade 11 Achievement Level Descriptors [Formerly LAC 28:CXI.1327]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 and R.S. 17:391.4 (A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1550 (July 2005), amended LR 36:975 (May 2010), repealed LR 44:

## Subchapter D. GEE Assessment Structure

### §6345. Double Jeopardy Rule [Formerly LAC 28:CXI.1345]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006), repealed LR 44:

### §6347. First and Second Cohorts [Formerly LAC 28:CXI.1347]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006), repealed LR 44:

**§6348. Last Cohorts**
**[Formerly LAC 28:CXI.1348]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:35 (January 2012), repealed LR 44:

**Chapter 65. Norm-Referenced Tests**

**§6501. Description**
**[Formerly LAC 28:CXI.1501]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006), repealed LR 44:

**Chapter 67. Integrated LEAP**

**Subchapter A. General Provisions**

**§6700. Sunset Provision**
**[Formerly LAC 28:CXI.1700]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:859 (March 2011), repealed LR 44:

**§6701. Introduction**
**[Formerly LAC 28:CXI.1701]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006), LR 33:265 (February 2007), LR 39:75 (January 2013), LR 42:226 (February 2016), repealed LR 44:

**Subchapter B. Achievement Levels and Performance Standards**

**§6705. Introduction**
**[Formerly LAC 28:CXI.1705]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:266 (February 2007), amended LR 42:227 (February 2016), repealed LR 44:

**§6707. Performance Standards**
**[Formerly LAC 28:CXI.1707]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:266 (February 2007), amended LR 42:227 (February 2016), repealed LR 44:

**Chapter 68. LEAP 2025 Assessments for High School**

**Subchapter A. General Provisions**

**§6801. Overview**
**[Formerly LAC 28:CXI.1801]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:214 (February 2009), repealed LR 44:

**§6803. Introduction**
**[Formerly LAC 28:CXI.1803]**

A. LEAP 2025 assessments for high school will measure the knowledge and skills a student should have mastered by the end of the course. The results of the LEAP 2025 assessments for high school will help ensure that all Louisiana students have access to a rigorous curriculum that meets high academic standards.

B. Beginning in 2017-2018, LEAP 2025 assessments for high school will assess student learning in the high school courses:

1. algebra I;
2. geometry;
3. English I;
4. English II; and
5. biology (beginning Fall 2018); and
6. U.S. history.

NOTE: The U.S. History 4-level end-of-course test will continue to be available in 2017-2018 only to students who are either retesting and are not repeating the course, or graduating in 2017-2018. The biology 4-level end-of-course test will continue to be utilized through spring 2018; beginning in the 2018-2019 school year, student knowledge and skills of state academic standards in biology will be measured by the LEAP 2025 Biology assessment for students who are taking the course and are not graduating in 2018-2019; like US History in 2017-2018, students who are retesting and are not repeating the course, and students graduating in 2018-2019 will be allowed to complete the four-level Biology EOC for one more year. The English III end-of-course exam will continue to be available for students who entered a high school cohort in 2016-2017 or prior.

C. Any student enrolled in and/or receiving credit for a LEAP 2025 course, regardless of grade inclusive of middle school students taking high school courses for high school credit is required to take the LEAP 2025 high school assessment upon completion of that course.

D. LEAP 2025 high school assessments will be offered at the end of the fall and spring semesters.

1. - 2. …

3. Students completing the course at the end of the summer semester shall participate in the summer test regardless of the grade earned during the summer semester.

E. Since these tests are being developed for use in Louisiana schools, any school selected for field tests shall participate in the field tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:214 (February 2009), LR 36:477 (March 2010), amended LR 38:35 (January 2012), LR 40:2514 (December 2014), LR 44:

**§6804. EOCT Development and Implementation Plan**
**[Formerly LAC 28:CXI.1804]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), amended LR 38:35 (January 2012), repromulgated LR 39:76 (January 2013), repealed LR 44:

## Subchapter C. Achievement Levels and Performance Standards

### §6811. LEAP 2025 for High School Achievement Levels [Formerly LAC 28:CXI.1811]

A.1. The Louisiana LEAP 2025 achievement levels are:

a. advanced;
b. mastery;
c. basic;
d. approaching basic; and
e. unsatisfactory.

B. Achievement Level Definitions

1. *Advanced (Proficient)*—students performing at this level have exceeded college and career readiness expectations, and are well prepared for the next level of studies in this content area.

2. *Mastery (Proficient)*—students performing at this level have met college and career readiness expectations, and are prepared for the next level of studies in this content area.

3. *Basic*—Students performing at this level have nearly met college and career readiness expectations, and may need additional support to be fully prepared for the next level of studies in this content area.

4. *Approaching Basic*—students performing at this level have partially met college and career readiness expectations, and will need much support to be prepared for the next level of studies in this content area.

5. *Unsatisfactory*—Students performing at this level have not yet met the college and career readiness expectations, and will need extensive support to be prepared for the next level of studies in this content area

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), amended LR 44:

### §6813. Performance Standards [Formerly LAC 28:CXI.1813]

A. Performance standards for LEAP 2025 algebra I, English I, English II, geometry, biology, and U.S. history tests are finalized in scaled-score form.

B. LEAP 2025 Achievement Levels and Scaled-Score Ranges

1. English I Scaled-Score Ranges

| English I | |
|---|---|
| **Achievement Level** | **Scaled-Score Ranges** |
| Advanced | 791-850 |
| Mastery | 750-790 |
| Basic | 725-749 |
| Approaching Basic | 700-724 |
| Unsatisfactory | 650-699 |

2. Algebra I Scaled-Score Ranges

| Algebra I | |
|---|---|
| **Achievement Level** | **Scaled-Score Ranges** |
| Advanced | 805-850 |
| Mastery | 750-804 |
| Basic | 725-749 |
| Approaching Basic | 700-724 |
| Unsatisfactory | 650-699 |

3. English II Scaled-Score Ranges

| English II | |
|---|---|
| **Achievement Level** | **Scaled-Score Ranges** |
| Advanced | 794-850 |
| Mastery | 750-793 |
| Basic | 725-749 |
| Approaching Basic | 700-724 |
| Unsatisfactory | 650-699 |

4. Geometry Scaled-Score Ranges

| Geometry | |
|---|---|
| **Achievement Level** | **Scaled-Score Ranges** |
| Advanced | 783-850 |
| Mastery | 750-782 |
| Basic | 725-749 |
| Approaching Basic | 700-724 |
| Unsatisfactory | 650-699 |

5. Biology Scaled-Score Ranges (will be updated after 2018-2019)

| Biology | |
|---|---|
| **Achievement Level** | **Scaled-Score Ranges** |
| Excellent | 740-800 |
| Good | 700-739 |
| Fair | 661-699 |
| Needs Improvement | 600-660 |

6. U.S. History (will be updated in 2017-2018)

| Achievement Level | U.S. History Scaled-Score Ranges |
|---|---|
| Excellent | 748-800 |
| Good | 700-747 |
| Fair | 665-699 |
| Needs Improvement | 600-664 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009s), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:35 (January 2012), LR 39:76 (January 2013), LR 39:2444 (September 2013), LR 44:

## Subchapter D. LEAP 2025 for High School Administrative Rules

### §6819. Double Jeopardy Rule [Formerly LAC 28:CXI.1819]

A. If a school administers EOC or LEAP 2025 tests that the student has already passed and the student scores needs improvement on the retest, the passing score will be used to determine the student's eligibility for a standard high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:977 (May 2010), amended LR 44:

### §6821. High School Test Cohorts [Formerly LAC 28:CXI.1821]

A. Students who entered traditional grade 9 in 2010–2011 through 2016-2017 are required to score Level 2 (Approaching Basic/Fair) or above on English II or English

III, Algebra I or Geometry, and Biology or U.S. history to be eligible for a standard high school diploma.

B. Students who enter traditional grade 9 during or after 2017-2018 are required to score Level 2 (Approaching Basic/Fair) or above on English I or English II, Algebra I or Geometry, and Biology or U.S. History to be eligible for a standard high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:977 (May 2010), amended LR 38:36 (January 2012), LR 44:

**§6825. LEAP 2025 for High School Administration Rules [Formerly LAC 28:CXI.1825]**

A. Students enrolled in EOC or LEAP 2025 courses shall take the EOC or LEAP 2025 test for that course at the conclusion of the course.

B. …

C. There is no ending age limit for students to retest in EOC or LEAP 2025, nor is there a limit on the number of times the student may retake the test. Students who no longer reside in the school district where he/she completed Carnegie units may test in the current school district of residence. The DTC shall forward the passing test scores to the high school where the Carnegie units reside.

D. If a student was issued a GED diploma and subsequently meets the requirements for the EOC or LEAP 2025, the student may surrender the GED diploma and be issued a standard high school diploma.

E. …

F. Students who wish to retest for the Louisiana high school diploma endorsements may retest during the fall, spring, or summer retest administration only one time for each EOC test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:977 (May 2010), amended LR 39:77 (January 2013), LR 44:

**§6827. LEAP 2025 Retest Administration [Formerly LAC 28:CXI.1827]**

A. Students who did not score Approaching Basic or above on LEAP 2025 test may retest in the next LEAP 2025 administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:978 (May 2010), amended LR 44:

**§6829. LEAP 2025 Transfer Rules [Formerly LAC 28:CXI.1829]**

A. The following rules apply for transfer students who are Louisiana residents transferring into the Louisiana public school district from out-of-state schools, nonpublic schools, or approved home study programs.

1. A transfer student is not required to take the LEAP 2025 tests for courses he/she already successfully completed for Carnegie credit.

2. A transfer student shall be required to take the LEAP 2025 test for courses he/she previously took but did not pass.

3. A transfer student may choose to take a LEAP 2025 test for a course he/she already successfully completed if he/she scored *Needs Improvement* on a LEAP 2025 test in another course and the student must pass the LEAP 2025 test for one of the LEAP 2025 pairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:978 (May 2010), amended LR 37:820 (March 2011), LR 44:

**§6831. College and Career Diploma [Formerly LAC 28:CXI.1831]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:821 (March 2011), repealed LR 44:

**Chapter 69. LEAP Connect**

**Subchapter A. Background**

**§6900. Sunset Provision [Formerly LAC 28:CXI.1900]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:821 (March 2011), repealed LR 44:

**§6901. Overview [Formerly LAC 28:CXI.1901]**

A. The LEAP Alternate Assessment, Level 1 LEAP Connect is a specially designed assessment program that evaluates students with the most significant cognitive disabilities. LEAP Connect represents an assessment of connector standards relative to the general education components of the LEAP 2025 As such, it meets ESSA requirements to assess students with the most significant cognitive disabilities in the state, with its results contributing to school, district, and state accountability decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:239 (February 2006), LR 33:425 (March 2007), LR 35:208 (February 2009), LR 44:

**Subchapter B. General Provisions**

**§6903. Introduction [Formerly LAC 28:CXI.1903]**

A. The LEAP Connect is an assessment that evaluates each eligible student's knowledge and skills in targeted areas. It is administered one-on-one and consists of items written at four levels of complexity to represent different levels of achievement by students.

1. The LEAP Connect is aligned to the Louisiana Connectors (LCs), which represent developmentally-appropriate content benchmarks that provide pathways toward achieving Louisiana Student Standards across all grade levels in English language arts and mathematics for students with significant cognitive disabilities.

2. The LCs capture the essence of the content standards and provide a way for students with significant cognitive disabilities to access the general education curriculum.

B. Four levels of academic complexity related to each LC provide instructional access for students with varying academic abilities.

C. Definitions

*Content Standards*—broad statements of what students should know and be able to do.

*Connector Standards*—represent the most salient grade-level, core academic content that students with significant cognitive disabilities must master in order to be prepared for a successful life after high school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:425 (March 2007), amended LR 35:208 (February 2009), LR 44:

**Subchapter E. Alternate Achievement Levels and Performance Standards**

**§6911. LEAP Connect Achievement Levels [Formerly LAC 28:CXI.1911]**

A. The LEAP Connect achievement levels are Levels 1-4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance LR 33:426 (March 2007), amended LR 35:209 (February 2009) LR 44:

**§6913. Performance Standards [Formerly LAC 28:CXI.1913]**

A. Performance standards for LEAP Connect English Language Arts, Mathematics, and LAA1 Science tests are finalized in scaled-score form.

B. LEAP Connect and LAA 1 Alternate Achievement Levels and Scaled-Score Growth Ranges

1. LEAP Connect English Arts and Mathematics Scaled Score Ranges

2. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007), amended LR 35:209 (February 2009), LR 44:

**Chapter 70. LEAP Alternate Assessment, Level 2**

**Subchapter A. Background**

**§7000. Sunset Provision [Formerly LAC 28:CXI.2000]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:821 (March 2011), amended LR 40:2514 (December 2014), repealed LR 44:

**§7001. Introduction [Formerly LAC 28:CXI.2001]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:239 (February 2006), amended LR 33:269 (February 2007), LR 40:2514 (December 2014), repealed LR 44:

**Subchapter B. Achievement Levels and Performance Standards**

**§7005. Achievement Levels [Formerly LAC 28:CXI.2005]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(1) and (C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:270 (February 2007), repealed LR 44:

**§7007. Performance Standards [Formerly LAC 28:CXI.2007]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:270 (February 2007), amended LR 33:2350 (November 2007), LR 34:2553 (December 2008), repromulgated LR 35:57 (January 2009), repealed LR 44:

**Subchapter C. Achievement Level Descriptors**

**§7009. Introduction [Formerly LAC 28:CXI.2009]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:271 (February 2007), repealed LR 44:

**§7017. Grade 10 Achievement Level Descriptors [Formerly LAC 28:CXI.2017]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:273 (February 2007), amended by the Board of Elementary and Secondary Education, LR 33:2040 (October 2007), LR 36:980 (May 2010), repealed LR 44:

**§7019. Grade 11 Achievement Level Descriptors [Formerly LAC 28:CXI.2019]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:274 (February 2007), amended by the Board of Elementary and Secondary Education, LR 33:2041 (October 2007), LR 36:981 (May 2010), repealed LR 44:

**Subchapter D. LAA 2 Assessment Structure**

**§7021. Content Standards [Formerly LAC 28:CXI.2021]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:275 (February 2007), amended LR 33:2042 (October 2007), repealed LR 44:

**§7023. English Language Arts Tests Structure [Formerly LAC 28:CXI.2023]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:275 (February 2007), amended LR 33:2042 (October 2007), repealed LR 44:

**§7025. Mathematics Test Structure**
**[Formerly LAC 28:CXI.2025]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:275 (February 2007), amended LR 33:2042 (October 2007), repealed LR 44:

**§7027. Science Tests Structure**
**[Formerly LAC 28:CXI.2027]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:276 (February 2007), amended LR 33:2043 (October 2007), repealed LR 44:

**§7029. Social Studies Tests Structure**
**[Formerly LAC 28:CXI.2029]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2)

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, 36:980 (May 2010), repealed LR 44:

**§7031. Double Jeopardy Rule**
**[Formerly LAC 28:CXI.2031]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:981 (May 2010), repealed LR 44:

**§7033. Rescores**
**[Formerly LAC 28:CXI.2033]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:981 (May 2010), repealed LR 44:

**§7035. LAA 2 High School Assessment Administration Rules**
**[Formerly LAC 28:CXI.2035]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:981 (May 2010), amended LR 40:2514 (December 2014), repealed LR 44:

**§7037. Summer Retest Administration**
**[Formerly LAC 28:CXI.2037]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:982 (May 2010), amended LR 40:2515 (December 2014), repealed LR 44:

**§7041. Student Membership Determination**
**[Formerly LAC 28:CXI.2041]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:983 (May 2010), repealed LR 44:

**Chapter 71. National Assessment of Educational Progress**

**§7101. General Provisions**
**[Formerly LAC 28:CXI.2101]**

A. NAEP, also known as the "Nation's Report Card," reports its results from jurisdictions around the country. NAEP uses a random stratified sample to select school districts, schools within those districts, and students within those schools.

B. …

C. The NAEP test contractor handles all aspects of NAEP testing including distribution and collection of all test materials. Results are reported within six months.

D. Participation in NAEP

1. In 1990, the NAEP assessments became a part of the LEAP, with state statute R.S. 17:24.4, making participation in NAEP mandatory for Louisiana schools. Additionally, the Every Student Succeeds Act (ESSA) mandates schools' participation. Participation in NAEP is a requirement for states and school districts receiving Title I grants.

2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 44:

**Chapter 72. ACT Program**

**§7203. EXPLORE**
**[Formerly LAC 28:CXI.2203]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:77 (January 2013), repealed LR 44:

**§7205. PLAN**
**[Formerly LAC 28:CXI.2205]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:77 (January 2013), repealed LR 44:

**§7209. WorkKeys**
**[Formerly LAC 28:CXI.2209]**

A. The ACT WorkKeys assessment for 11th grade students in the Jump Start program assesses the academic and career skills that are needed to be successful in the workplace. It assists in identifying educational pathways that can further develop the proficiencies that are critical to job success. WorkKeys matches student skills to job profiles in order to support students in developing successful career pathways.

1. Students shall be subject to a 30-day wait period before retesting on WorkKeys assessments, during which time LEAs shall provide remediation.

2. District must provide student results for all WorkKeys tests taken by every student every year, as outlined by DOE, to ensure all results are considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:1320 (July 2014), amended LR 44:

## Chapter 73. English Language Proficiency Test (ELPT)

### Subchapter A. Background

#### §7301. Overview [Formerly LAC 28:CXI.2301]

A. The NCLB of 2002 Title III (20 USCS §6301 et seq.) requires standards-based assessment of the progress of all English learners enrolled in grades kindergarten through 12 in attaining English proficiency, including a student's level of comprehension, speaking, listening, reading, and writing skills in English.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 33:259 (February 2007), LR 44:

### Subchapter B. General Provisions

#### §7303. Introduction [Formerly LAC 28:CXI.2303]

A. The English Language Proficiency Test (ELPT) is composed of tests in six grade bands (Kindergarten, 1, 2-3, 4-5, 6-8, 9-12) in the four language domains (reading, writing, listening, and speaking). It assesses the English language proficiency of students. ELPT is vertically linked across grade bands and has five levels of performance ranging from level 1 to level 5.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:259 (February 2007), amended LR 44:

### Subchapter C. Target Population

#### §7307. Participation Criteria [Formerly LAC 28:CXI.2307]

A. English Language Learners. A student who is aged 3 through 21; who is enrolled in an English-speaking elementary school or secondary school for less than a year; who was not born in the United States or whose native language is a language other than English; who is a Native American or Alaska Native or a native resident of the outlying areas and comes from an environment where a language other than English has had significant impact on his level of English language proficiency; or who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny them:

1. - 3. …

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:259 (February 2007), amended LR 44:

### Subchapter D. Performance Levels and Proficiency Standards

#### §7309. Proficiency Levels [Formerly LAC 28:CXI.2309]

A.1. ELPT performance levels are:

a. level 1, beginning;
b. level 2, early intermediate;
c. level 3, intermediate;
d. level 4, early advanced; and
e. level 5, advanced.

2. The name of the performance levels align with ELPT. The definition of each level is also consistent with the definitions of ELPT.

B. Performance Level Definitions

1. *Level 1: Beginning*—displays few grade-level English language skills and will benefit from EL program support.

2. *Level 2: Early Intermediate*—presents evidence of developing grade-level English language skills and will benefit from EL program support.

3. *Level 3: Intermediate*—applies some grade-level English language skills and will benefit from EL program support.

4. *Level 4: Early Advanced*—demonstrates English language skills required for engagement with grade-level academic content instruction at a level comparable to non-ELs.

5. *Level 5: Advanced*—exhibits superior English language skills, as measured by LEAP connect.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:259 (February 2007), amended LR 44:

#### §7311. Proficiency Standards [Formerly LAC 28:CXI.2311]

A. Performance standards for English Language Proficiency Connectors for listening, speaking, reading, and writing tests are finalized in scaled-score form. The scaled-score ranges vary per grade and grade band.

## Performance Standards Cut Scores

| Domain | Performance Standard Level 1 | Performance Standard Level 2 | Performance Standard Level 3 | Performance Standard Level 4 | Performance Standard Level 5 |
|---|---|---|---|---|---|
| **Kindergarten** | | | | | |
| Listening | 466 or below | 467-506 | 507-612 | 613-644 | 645 or above |
| Speaking | 486 or below | 487-534 | 535-597 | 598-624 | 625 or above |
| Reading | 472 or below | 473-513 | 514-591 | 592-626 | 627 or above |
| Writing | 496 or below | 497-561 | 562-650 | 651-672 | 673 or above |
| **Grade One** | | | | | |
| Listening | 434 or below | 435-466 | 467-548 | 549-593 | 594 or above |
| Speaking | 527 or below | 528-576 | 577-592 | 593-618 | 619 or above |
| Reading | 478 or below | 479-514 | 515-583 | 584-628 | 629 or above |
| Writing | 497 or below | 498-547 | 548-612 | 613-640 | 641 or above |
| **Grade Two** | | | | | |
| Listening | 407 or below | 405-437 | 438-511 | 512-563 | 564 or above |
| Speaking | 489 or below | 490-528 | 529-554 | 555-587 | 588 or above |
| Reading | 456 or below | 456-488 | 489-554 | 555-594 | 594 or above |
| Writing | 451 or below | 452-492 | 493-554 | 555-590 | 591 or above |
| **Grade Three** | | | | | |
| Listening | 408 or below | 409 -447 | 448-535 | 536-597 | 598 or above |
| Speaking | 499 or below | 500-537 | 538-571 | 572-611 | 612 or above |
| Reading | 494 or below | 495-540 | 541-609 | 610-643 | 644 or above |
| Writing | 497 or below | 498-541 | 542-602 | 603-635 | 636 or above |
| **Grade Four** | | | | | |
| Listening | 397 or below | 398-430 | 431-491 | 492-562 | 563 or above |
| Speaking | 461 or below | 462-505 | 506-543 | 544-583 | 584 or above |
| Reading | 452 or below | 453-487 | 488-549 | 550-593 | 594 or above |
| Writing | 436 or below | 437-480 | 481-567 | 568-599 | 600 or above |
| **Grade Five** | | | | | |
| Listening | 412 or below | 413-454 | 455-497 | 498-580 | 581 or above |
| Speaking | 482 or below | 483-525 | 526-572 | 573-606 | 607 or above |
| Reading | 467 or below | 468-510 | 511-587 | 588-626 | 627 or above |
| Writing | 437 or below | 438-485 | 486-597 | 598-627 | 628 or above |
| **Grade Six** | | | | | |
| Listening | 409 or below | 410-439 | 440-497 | 498-564 | 565 or above |
| Speaking | 464 or below | 465-510 | 511-561 | 562-594 | 595 or above |
| Reading | 460 or below | 461-495 | 496-564 | 565-603 | 604 or above |
| Writing | 424 or below | 425-471 | 472-563 | 564-593 | 594 or above |
| **Grade Seven** | | | | | |
| Listening | 429 or below | 430-472 | 473-552 | 553-596 | 597 or above |
| Speaking | 474 or below | 475-526 | 527-581 | 582-610 | 611 or above |
| Reading | 485 or below | 486-533 | 534-608 | 609-641 | 642 or above |
| Writing | 473 or below | 474-519 | 520-596 | 597-624 | 625 or above |
| **Grade Eight** | | | | | |
| Listening | 431 or below | 432-477 | 478-564 | 565-612 | 613 or above |
| Speaking | 475 or below | 476-527 | 528-589 | 590-618 | 619 or above |
| Reading | 493 or below | 494-546 | 547-639 | 640-668 | 669 or above |
| Writing | 483 or below | 484-532 | 533-618 | 619-646 | 647 or above |
| **Grade Nine–Twelve** | | | | | |
| Listening | 450 or below | 451-490 | 491-570 | 571-612 | 613 or above |
| Speaking | 480 or below | 481-535 | 536-592 | 593-618 | 619 or above |
| Reading | 487 or below | 488-538 | 539-630 | 631-661 | 662 or above |
| Writing | 484 or below | 585-532 | 533-614 | 615-640 | 641 or above |

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:260 (February 2007), amended LR 34:2556 (December 2008), repromulgated LR 35:61 (January 2009), LR 44:

**Chapter 74. Academic Skills Assessment (ASA)**

**Subchapter A. Background**

**§7400. Sunset Provision**
**[Formerly LAC 28:CXI.2400]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and 17:24(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:77 (January 2013), repealed LR 44:

**Chapter 75. Field Testing**

**§7501. General Provisions**
**[Formerly LAC 28:CXI.2501]**

A. The purpose of field testing is to obtain data on test items that have been developed for a particular assessment. In Louisiana, test items are developed and field tests conducted for the following assessments as needed:

1. Louisiana Educational Assessment Program (LEAP) 2025;
2. LEAP Connect;
3. ELPT.

B. - C.2.f.iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 32:239 (February 2006), LR 34:1353 (July 2008), LR 40:2515 (December 2014), LR 44:

**§7503. Field Test Administration**
**[Formerly LAC 28:CXI.2503]**

A. The same test security procedures and test administration rules used for operational (regular) testing apply to field tests. District and school personnel must adhere to the test security policy and to all directions in the field test administration manuals. Schools will be monitored to ensure that administrative and security procedures are followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 44:

**Chapter 79. Graduation Exit Examination ("Old" GEE)**

**§7901. General Provisions**
**[Formerly LAC 28:CXI.2901]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(4)(a) and R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 40:2515 (December 2014), repealed LR 44:

**§7903. Performance Standards**
**[Formerly LAC 28:CXI.2903]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(4)(a) and R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), repealed LR 44:

**§7905. Transfer Students**
**[Formerly LAC 28:CXI.2905]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.24.4 and R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1559 (July 2005), repealed LR 44:

**§7907. Student Membership Determination**
**[Formerly LAC 28:CXI.2907]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.24.et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1559 (July 2005), repealed LR 44:

**Chapter 81. Louisiana Alternate Assessment-B**

**§8101. Special Education Needs**
**[Formerly LAC 28:CXI.3101]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1559 (July 2005), repealed LR 44:

**Chapter 83. Assessment of Special Populations**

**§8301. Participation**
**[Formerly LAC 28:CXI.3301]**

A. The following classifications of special populations students must be tested in statewide assessments:

1. students with disabilities receiving special education services;
2. …
3. English language learners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 44:

**§8303. Students with Disabilities**
**[Formerly LAC 28:CXI.3303]**

A. All students with disabilities must participate in statewide assessments. Students are to take the test that corresponds to the grade in which they are enrolled. Students who meet specific participation criteria as stated in Bulletin 1530 Louisiana IEP Handbook for Students with Disabilities and whose Individualized Education Plans (IEPs) indicate they will participate in an alternate assessment may participate in the LEAP Alternate Assessment, Level 1 (LAA 1) or LEAP Connect assessment. The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student's IEP. Test accommodations cannot be different from or in addition to the accommodations indicated on the student's IEP and provided in regular classroom instruction and assessment.

A.1. - A.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended by the Board of Elementary and Secondary Education, LR 32:239 (February 2006), LR 36:983 (May 2010), LR 38:37 (January 2012), LR 40:2515 (December 2014), LR 44:

**§8305. Students with One or More Disabilities According to Section 504 [Formerly LAC 28:CXI.3305]**

A. - B.2.a. …

b. Signatures. Duplicate signatures are not acceptable on the IAP. The parent and student signatures are optional, but it is considered best practice to obtain these.

2.c. - 3.…

4. New accommodations or changes to an accommodation for a statewide assessment should be on the student IAP form 30 days prior to the start of testing.

B.5. - C.3. …

4. formal assessments approved by the school district:

D - F. …

G. Test Accommodations for both Section 504 and Special Education

1. Definition

*Accommodation*—a change in the test administration environment, timing, scheduling, presentation format, and/or method of response to the assessment.

2. Purpose of Accommodations. Test accommodations are provided to minimize the effects of a disability to ensure that a student can demonstrate the degree of achievement he or she actually possesses. Not all students with disabilities will need test accommodations, but many will need them to provide a valid and accurate measure of their abilities. The goal in using accommodations is to give students with disabilities an equal opportunity in assessment, not to give students with disabilities an unfair advantage over other students or to subvert or invalidate the purpose of the tests. The accommodation should allow the test score to reflect the student's proficiency in the area tested without the interference of his or her disability.

3. General Guidelines

a. Test accommodations should not be different from, or in addition to, the accommodations provided in the classroom during instruction and assessment and as indicated on the student's IEP or Section 504 IAP. According to the 1997 amendments to IDEA, accommodations for administration of general statewide and districtwide assessments must be based on each student's needs, as documented in the student's IEP. If an accommodation, even an accommodation listed on a student's IEP or IAP, is not provided in classroom instruction or assessment, it is inappropriate to provide that accommodation during testing.

b. Selection of appropriate test accommodations should be based on a review of a student's current instructional and classroom assessment accommodations and a clear understanding of the test format and what it measures. This information should determine which accommodations enable the student to demonstrate best what he or she knows and can do.

c. The accommodations must never compromise the purpose of the test. For example, a test that measures reading comprehension cannot be read aloud to a student. To do so would destroy the purpose of the test, which is to measure reading comprehension.

d. Individual or small group administration must be used if the accommodations will interfere with the testing of other students, e.g., tests read aloud.

e. Provided accommodations must be indicated in the required locations as instructed in the appropriate test manual.

f. Accommodations must not compromise test security or confidentiality. Any assistance in test administration must not give away the answers. All conditions that pertain to test security and return of test materials after the test is administered apply to tests that are administered with accommodations. All test manual instructions relating to handling nontraditional secure materials for accommodations must be followed precisely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:239 (February 2006), LR 33:262 (February 2007), LR 38:37 (January 2012), LR 44:

**§8306. Approved Accommodations for Students with IEPs or 504 Plans [Formerly LAC 28:CXI.3306]**

A. - A.1. …

a. Braille editions of the test are provided for students who are proficient in this mode of access to written material. The regular print edition may be modified in braille. Supplementary test administration instructions and manipulatives are provided as needed. All responses must be transferred to the scorable test form.

2. Large Print

a. Large-print editions may be used by students who use large print as an accommodation in classroom instruction and assessment and take the paper-based assessment in grades 3-4. Large-print editions contain all test items that are in the regular edition. Essentially the large-print edition is an enlarged version of the regular-print edition, though the layout may vary slightly so as not to make the document more difficult for a student to use. All responses must be transferred to the scorable test form.

3. Answers Recorded

a. If a student is unable due to his/her disability to write, the test administrator may record the student's answers on the scorable test form. Scribes and others supporting a student's test taking must be neutral in responding to the student during test administration. Assistance in test administration must not give away the answers. The student's responses must accurately represent the student's own choices. If a scribe is used, the scribe must follow the directions for administration and recording answers in the guidance provided by LDE.

4. - 4.a.x. …

5. Extended Time/Adjusted Time

a. Every student must be given extended or sufficient time to respond to every test item. Extended time for statewide assessments is allowed until the end of the school day. Students must complete a test session on the day it is begun. Time may be adjusted for certain students, such as those who have short attention spans or who may be unable to concentrate for long periods of time on a given task. The test administration time may have to be altered considerably to allow for intermittent short breaks during the

testing period, or it may be determined appropriate to administer the test in a number of short sessions. Testing may also be stopped and continued at a later time if a student's behavior interferes with testing. The elapsed time must be documented and the test administrator must closely monitor that test security is maintained. The time of day the test is administered may also be adjusted to a time more beneficial to the student. All sessions, however, must be completed within the specified test administration dates, including makeup sessions.

6. Communication Assistance Script

a. Students who are deaf or hard of hearing and have the communications assistance script accommodation for testing must have a test administrator who is fluent in the cuing or signing modality routinely used by a student should be available to repeat or clarify directions and sign portions of the test if warranted by the student's reading level as documented on the IEP or IAP.

b. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be signed or cued. Such tests include the reading and responding session of GEE, LAA 2, EOC, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7. Transferred Answers

a. Student responses must be transferred by the test administrator precisely as instructed in the appropriate test manual. Such formats include braille, large print, typewritten responses, computer responses, and any other responses recorded with the assistance of mechanical or technological devices. Student responses not transferred will not be scored. If both a student's and a test administrator's handwriting appear on an answer document, only the student's writing will be scored.

8. Tests Read Aloud

a. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the test administration manuals. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of GEE, EOC, and LAA 2, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

9. Other

a. Any approved accommodations may be used, but they must be decided by the IEP team or Section 504 committee and listed on the student's IEP or IAP. The accommodation must not invalidate the meaning of the test score or the purpose of the test. Examples of other accommodations include highlighting the task or verbs in the directions on the test or assisting the student in tracking the test items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:263 (February 2007), amended LR 33:1010 (June 2007), LR 44:

**§8307. English Language Learners**
**Formerly LAC 28:CXI.3307]**

A. All ELLs must participate in statewide assessments. ELLs qualify for accommodations. Test accommodations must not be different from or in addition to the accommodations provided in the classroom during instruction and assessment and must not compromise test security or confidentiality. Accommodations must be documented on an ELL Accommodation form.

B. - B.6.c. …

C. Approved Accommodations for LEP Students

1. The following accommodations may be provided for ELL students participating in the LEAP 2025, GEE, LAA 2, LAA1 or LEAP Connect, and EOC or high school LEAP 2025 assessments.

a. Extended Time. Extended time for statewide assessments is allowed until the end of the school day. Students must complete a test session on the day it is begun.

b. Provision of English/Native Language Word-to-Word Dictionary (No Definitions). LEP students may use either a standard or an electronic English/native language word-to-word dictionary, without definitions, on all sessions of the test.

c. Tests Read Aloud. Students with accommodation of test read aloud may be allowed to have mathematics, social studies, and science tests read aloud. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

d. Test Administered by ESL Teacher or by Individual Providing Language Services. Familiarity with the speech patterns of the ESL teacher or individual providing language services may assist the student in understanding the test directions or the portions read aloud if the student receives the accommodation Tests Read Aloud.

D. Spanish language versions of math state assessments are provided for on LEAP 2025 math assessments. Directions for LEAP 2025 assessments are provided in multiple native languages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq., and R.S. 17:24.4(F)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended by the Board of Elementary and Secondary Education, LR 32:240 (February 2006), LR 33:264 (February 2007), LR 33:1010 (June 2007), LR 36:983 (May 2010), LR 37:821 (March 2011), LR 41:616 (April 2015), LR 44:

**Chapter 85. Assessment of Students in Special Circumstances**

**§8503. Homebound Students**
**[Formerly LAC 28:CXI.3503]**

A. Homebound students shall be administered the appropriate assessment for their enrolled grade. The test administrator must issue the test each day and return the testing materials to the enrolled school daily. The test

administrator must receive training in security and test administration procedures and sign a security oath.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 44:

**§8507. Office of Juvenile Justice**
**[Formerly LAC 28:CXI.3507]**

A. Students enrolled in grades 3 through 11 who are under the supervision of correctional facilities shall take the appropriate assessment for their enrolled grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 33:2043 (October 2007), LR 44:

**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 one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 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 Noon, January 9, 2018, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Part XI. Bulletin 118—Statewide Assessment Standards and Practices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be indeterminable costs for local school districts as a result of the changes to the student achievement levels and performance standards, when taken in conjunction with proposed changes to the school, district, and state accountability system contained in Bulletin 111. Per the state accountability system, potential implications for schools which are labeled academically in crisis or failing include increased resource needs for evidence based intervention and improvement programs; increased potential for students to enroll at other public and non-public schools; increased competition from charter schools; as well as increased risk of takeover by the state Recovery School District. There may be increased costs for the Department of Education (LDE) as the proposed changes require increased involvement by the LDE for schools that do not make progress on improvement plans. These costs are indeterminable at this time and will depend upon the type and extent of intervention and supports provided.

Under the proposed changes new high school assessments will use the five achievement levels that are already used for testing in grades 3-8; from Excellent, Good, Fair, and Needs Improvement to Advanced, Mastery, Basic, Approaching Basic, and Unsatisfactory. Further, scaled score ranges for Algebra I, English II and Geometry are being adjusted; new score ranges for English I are replacing English III.

Proposed changes contained in Bulletin 111 revise the school performance score (SPS) formula, which includes the number of index points associated with each of the five achievement levels. Additionally, the overall grading scale will be adjusted in 2018 and 2022, returning to the 2013 baseline in 2025. As a result, school performance scores for the next three years are expected to result in a reduction in the number of schools earning a letter grade of "A" and an increase in the number of schools earning a letter grade of "F". Additionally, subgroup performance score will be calculated for each major racial and ethnic group; subgroup scores equivalent to a "D" or "F" will result in lower SPS for schools which would otherwise earn an A". New categories of Urgent Intervention Needed, Urgent Intervention Required, and Comprehensive Intervention Required are being created. Schools assigned these ratings based on overall grade, subgroup performance grades, excessive out of school suspensions, or certain cohort graduation rates will be required to develop a plan that describes goals, strategies, and monitoring processes that will be used to address identified deficiencies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Schools may be eligible for School Redesign Grants. The US Department of Education requires states to utilize 7% (approximately $20 M) of the Title I allocation for school improvements. The LDE estimate utilizing a significant portion of this set-aside annually for competitive grants to local districts and charter schools. These competitive grants will be awarded by the LDE which will evaluate requests for funding based on plans which address curriculum, assessment, and teacher professional development and which must ensure access to advanced coursework, career education, and strong academic counseling.

To the extent enrollment at traditional public schools is impacted, state per pupil funding allocations from the Minimum Foundation Program (MFP) could be reduced.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Public charter schools will experience similar impacts to those identified for traditional public schools.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The LDE believes local school districts will raise the bar in order to achieve the new accountability scores, which ultimately will be beneficial to students, ensuring they are learning at higher levels.

Local school district Superintendents have expressed concerns that districts which experience lower school performance scores as a result of the changes may have difficulty attracting high quality teachers. Further, that lower scores may affect taxpayers' confidence in the local school system, making it harder for districts to generate support for changes in property millages and sales taxes which accrue to the district.

Lower scores may also lead to parental decisions to move students out of traditional public schools to public charters, non-public schools, home-schooling, or participation in the state voucher or student tuition donation program.

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|---|---|
| Beth Scioneaux | Evan Brasseaux |
| Deputy Superintendent | Staff Director |
| 1712#058 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:XXXIX.103, 305, and Chapters 5-11)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1566—Pupil Progression Policies and Procedures*: §305, Submission Process; §501, State Requirements, §503, Regular Placement; §505, Other Placement Requirements; §507, Records and Reports; §513, Local Testing Programs; §701, Promotion Standard; §703, Retention; §705, Support for Students; §707, Exceptions to High Stakes Policy; §901, Preface; §903, Legal Authorization; §905, Definition and Purpose; §907, Responsibilities of BESE; §909, State Funding of Remedial Education Programs; §911, Criteria for State Approval; §913, Local Program Development and Evaluation; §915, State Department of Education Responsibilities; and §1101, Definitions of Terms. The proposed policy revisions are related to student promotion and retention.

**Title 28**
**EDUCATION**
**Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures**

**Chapter 1. Purpose**

**§103. Preface**

A. - C. …

D. The Louisiana State Legislature in Regular Session during the summer of 1997 amended and reenacted R.S. 17:24.4(F) and (G)(1), relative to the Louisiana Competency-Based Education Program, to require the state Board of Elementary and Secondary Education (BESE) to adopt rules relative to the promotion of fourth and eighth grade students.

E. …

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 25:2169 (November 1999), amended LR 33:2061 (October 2007), LR 36:2001 (September 2010), LR 44:

**Chapter 3. General Procedure for Development; Approval and Revision of a Pupil Progression Plan**

**§305. Submission Process**

A. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Department of Education. Documentation of input in the plans development by

educators and parents as well as public notice prior to local board approval and locally-initiated revisions (including dates and locations) must be submitted.

1. - 2. …

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 1999), amended LR 27:188 (February 2001), LR 27:1517 (September 2001), LR 36:2002 (September 2010), LR 44:

## Chapter 5. Placement Policies—General Requirements

### §501. General Requirements

A. …

B. Each plan shall provide details on academic supports for struggling students, including but not limited to grade-level instruction that is aligned with state academic content standards.

C. Based upon local school board policy pursuant to these policies and procedures, each teacher shall, on an individualized basis, determine promotion or placement of each student. Local school board policies relative to pupil progression will apply to students placed in regular education programs as well as to exceptional students and to students placed in alternative programs. Placement decisions for exceptional students must be made in accordance with the least restrictive environment requirements of state and federal laws.

D. No school board member, school superintendent, assistant superintendent, principal, guidance counselor, other teacher, or other administrative staff members of the school or the central staff of the parish or city school board shall attempt, directly or indirectly, to influence, alter, or otherwise affect the grade received by a student from his/her teacher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4, and R.S. 17:414.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 3:2062 (October 2007), LR 36:2003 (September 2010), LR 44:

### §503. Regular Placement

A. - A.1.b. …

c. Each plan shall include promotion requirements for students eligible to take LEAP alternate assessment, level 1 (LAA 1) or LEAP connect.

d. - e. …

B. Requirements for High School Students

1. Each plan shall include the following statements, that:

a. 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 or LEAP 2025 high school assessments to receive a high school diploma;

b. any first-time eighth grade student who does not meet the passing standard set forth in §703 of this bulletin and any student not eligible for any waiver pursuant to §707 of this bulletin, after completing summer remediation, may be placed on a high school campus in transitional ninth grade;

c. LEAs shall follow the guidelines set forth in §703 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 exceeds the percentage of eighth graders in that LEA eligible for transitional ninth grade at the conclusion of the prior school year, the local superintendent of that LEA shall provide a written justification to the state superintendent;

d. the initial 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;

e. each LEA shall admit transitional ninth grade students, subject to any admissions requirements approved by the school's governing authority or charter authorizer;

f. the following shall govern the transitional ninth grade.

i. Students placed in the transitional ninth grade shall complete the summer remediation program offered by the LEA. For any student who recently completed the eighth grade and is transferring into the LEA from another state or country after summer remediation, the LEA shall review the student's academic record to determine appropriate placement in ninth grade or transitional ninth grade. Such placement shall occur no later than October 1 of each school year.

ii. After one full year of transitional ninth grade, students shall be included in the ninth grade graduation cohort for high school accountability purposes.

iii. Students enrolled in transitional ninth grade shall receive appropriate academic supports in any subjects in which they did not score at or above proficient, as determined by BESE. A plan outlining such academic supports shall be included in the student's individual graduation plan. Progress pursuant to such specified academic supports shall be reviewed at least once throughout the school year in order to determine effectiveness and any needed adjustments.

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. Retention—Grades K-12

1. Retention of a student shall be based upon the student's failure to meet the criteria established by local boards for promotion and other criteria contained in these policies and procedures.

D. Acceleration

1. Grades K-8

a. The local school board shall establish written policies and procedures for the placement of students who evidence that they will benefit more from the instructional program at an advanced grade level.

2. Grades 9-12

a. The local school board shall follow the policies and procedures established in *Bulletin 741—Louisiana Handbook for School Administrators*, and other local requirements for student acceleration.

E. Transfer Students

1. The local school board shall establish written policies for the placement of students transferring from all other systems and home schooling programs (public, nonpublic, both in and out-of-state, and foreign countries).

a. Students in grades 5 and 9 transferring to a public school from any in-state nonpublic school (state approved and not seeking state approval), any approved home study program, or Louisiana resident transferring from any out-of-state school, shall be required to pass the English language arts and mathematics portions of the LEAP placement test.

b. Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory. However, in accordance with R.S. 17:221, once students have enrolled in kindergarten, they are subject to compulsory attendance laws and promotion requirements set forth by the LEA.

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), LR 44:

**§505. Other Placement Requirements**

A. Progression—Students Participating in LEAP Alternate Assessment (LAA1) or LEAP Connect

1. Students with disabilities who participate in the LEAP alternate assessment or LEAP connect shall have promotion decisions determined by the IEP team.

B. - D.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 25:2172 (November 2000), amended LR 26:1433 (July 2000), LR 27:189 (February 2001), LR 27:1683 (October 2001), LR 29:123 (February 2003), LR 30:409 (March 2004), LR 33:2063 (October 2007), LR 36:2004 (September 2010), LR 44:

**§507. Records and Reports**

A. - B.1. …

2. scores on LEAP assessments;

3. - 6. …

7. a copy of the letter informing the parent of any planned academic support strategies to be provided to the student;

8. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 27:189 (February 2001), LR 27:1683 (October 2001), LR 36:2004 (September 2010), LR 44:

**§513. Local Testing Programs**

A. …

B. With reference to pupil placement, the local school system shall state the name of the instrument and publisher of other testing and screening programs to be used locally in grades K-12 for general education and exceptional students.

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 25:2173 (November 1999), amended LR 36:2005 (September 2010), LR 44:

**Chapter 7. Promotion and Support Policy**

**§701. Promotion and Support Standard for Grades 3-7**

A. Beginning with the end of the 2017-2018 school year and at the end of each school year thereafter, each local education agency shall identify, based on a preponderance of evidence of student learning, third and fourth grade students who have scored below "basic" achievement level in at least two core academic subjects, including English language arts, mathematics, science, and social studies, that would enable them to successfully transition to the next grade level. Fourth grade students who have not met such an acceptable level of performance may be retained or promoted, but in either case, shall be provided with an individual academic improvement plan that adheres to the following requirements:

1. The school shall convene an in-person meeting with the student's parent or legal custodian, all teachers of core academic subjects, and specialized support personnel, as needed, to review the student's academic strengths and weaknesses, discuss any other relevant challenges, and formulate an individual academic improvement plan designed to assist the student in achieving proficiency in all core academic subjects. All participants shall sign the documented plan, using a template provided by the department, and shall meet to review progress at least once more before the next administration of the LEAP assessment.

2. The student shall be provided with focused, on-grade level instructional support that is appropriate to the content area(s) in which the student has not yet achieved proficiency. Instruction shall be aligned with state academic content standards.

3. The student requiring an academic improvement plan shall be identified as such in the state student information system (SIS).

4. The student shall be afforded the opportunity to receive on grade-level instruction during the summer.

5. Each LEA shall adopt a written policy pertaining to the development of individual academic improvement plans. This policy shall be included in the pupil progression plan of the lea.

6. The department shall audit a random sampling of students in each local education agency identified pursuant to Paragraph A of this Section each year.

B. The department shall provide to each LEA a roster of third and fourth grade students who have scored below the "basic" achievement level in at least two core academic subjects. Such roster shall assist the LEA in making final determinations relative to students' individual academic plans required pursuant to this section.

1. The decision to retain a student as a result of his/her failure to achieve the standard on the LEAP shall be made by the LEA in accordance with the local pupil progression plan. The department shall provide guidance to LEAs on retention considerations.

2. The individual academic improvement plan required in this section shall continue to be in effect until such time as the student achieves a score of "basic" in each of the core academic subjects that initially led to the development of the student's individual academic plan.

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), LR 44:

**§703. Promotion and Support Standard for Grade 8**

A. Eighth grade students shall score at least at the "basic" achievement level in either English language arts or mathematics and "approaching basic" in the other subject in order to be promoted to the ninth grade. Students who do not meet the promotion standard after taking the eighth grade state assessments in spring and, following the completion of summer remediation, may be placed on a high school campus in the transitional ninth grade. For any student who recently completed the eighth grade and is transferring into the LEA from another state or country after the completion of summer remediation, the LEA shall review the student's academic record to determine appropriate placement in ninth grade or transitional ninth grade. Such placement shall occur no later than October 1 of each school year.

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 40:766 (April 2014), LR 44:

**§705. Supports for Students**

A. Summer Remediation

1. LEAs shall offer, at no cost, extended, on-grade level instruction through summer remediation to students who did not take the spring LEAP tests or who failed to meet the standard set forth in §701 and §703 of this bulletin. The LEA shall provide transportation to and from the assigned LEAP remediation summer site(s) from, at a minimum, a common pick-up point.

2. Student with disabilities attending summer remediation shall receive special supports as needed.

3. Summer remediation programs shall meet all of the following requirements:

a. use curriculum determined by the department to fully align to Louisiana state standards (*Bulletin 141—Louisiana Standards for English Language Arts*, *Bulletin 142—Louisiana Standards for Mathematics*, *Bulletin 1962—Louisiana Science Content Standards*, *and Bulletin 1964—Louisiana Social Studies Content Standards*);

b. teachers shall be rated "effective: proficient" or "highly effective" pursuant to the teacher's most recent evaluation or have achieved a value-added rating of "effective: proficient" or "highly effective" on the most recent evaluation;

c. remedial instruction, below grade level instruction, shall be limited to only necessary and focused skills as identified from top quality assessments and cannot account for more than 35 percent of the total summer remediation instructional time.

B. School Year Support

1. The individual academic plan for each student identified in §701 of this bulletin shall outline the responsibilities of each party for students who have failed to achieve the standard by the end of fourth grade.

2. LEAs shall design and implement additional instructional strategies to move the students to grade-level proficiency by providing at least two of the following, which shall be documented in the individual academic improvement plan.

a. The student is placed in the classroom of a teacher who has been rated "highly effective" pursuant to his/her most recent evaluation or has achieved a value-added rating of "highly effective" pursuant to his/her most recent evaluation, or has documented evidence derived from state summative assessments of improving the academic performance of students having individual academic improvement plans in the past.

b. The student completes summer remediation in accordance with Paragraph A of this Section.

c. Additional instructional time is provided during or outside of the school day to expose the student to high quality instruction. This shall not result in a student being removed from English language arts, mathematics, science, or social studies courses.

d. The student is provided access to on grade-level instruction that is aligned to Louisiana state standards, which may include some below grade-level content and support needed to address the student's identified weaknesses.

3. Remediation programs used throughout the school day and school year shall not account for more than 35 percent of total instructional minutes.

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 40:2533 (December 2014), LR 44:

**§707. Exceptions to Promotion and Support Policy for 8th Grade Students**

A. - A.1. …

2. the student has participated in the spring administration of LEAP and has attended the summer remediation program offered by the LEA; and

3. …

B. U/B Waiver. The LEA may waive the state policy for students scoring at the unsatisfactory level in English language arts or mathematics, if the student scores at the *basic* level in the other, provided that the following criteria are met:

1. - 4. …

5. the student has participated in the spring administration of LEAP and has attended the summer remediation program offered by the LEA; and

6. ...

C. AB/AB Waiver. An LEA, through its superintendent, may consider a waiver for a student who has scored at the approaching basic level on both the English language arts and mathematics components of LEAP. The LEA may grant the waiver in accordance with the local pupil progression plan provided the following criteria are met.

1. The student has attended the LEAP summer remediation program offered by the LEA.

D. LEP Waiver. Limited English proficient (LEP) students shall participate in the statewide assessments pursuant to Bulletin 118. The SBLC shall be granted the authority to waive the state's grade promotion policy for a LEP student.

E. Extenuating Circumstances Waiver

1. An LEA, through its superintendent, may grant a waiver on behalf of individual students who are unable to participate in LEAP testing or unable to attend LEAP summer remediation, including summer remediation required for placement in transitional ninth grade, because of one or more of the following extenuating circumstances as verified through appropriate documentation:

a. a physical illness or injury that is acute or catastrophic in nature;

b. a chronic physical condition that is in an acute phase;

c. court-ordered custody issues.

2. Documentation

a. Physical Illness. Appropriate documentation must include verification that the student is under the medical care of a licensed physician for illness, injury, or a chronic physical condition that is acute or catastrophic in nature. Documentation must include a statement verifying that the illness, injury, or chronic physical condition exists to the extent that the student is unable to participate in remediation.

b. Custody Issues. Certified copies of the court-ordered custody agreements must be submitted to the LEA at least 10 school days prior to summer remediation.

F. State-Granted Waiver

1. A local school superintendent, a parent or guardian, or the DOE may initiate a request for a state-granted waiver from the state superintendent of education on behalf of individual students who are not eligible for promotion because of LEA error or other unique situations not covered under extenuating circumstances.

2. The DOE will provide a report to BESE detailing state-granted waivers.

3. Documentation

a. LEA Error. The LEA superintendent or parent must provide the state superintendent of education with school- and student-level documentation detailing the error, how the error occurred, and how the error will be corrected so that it will not occur again in the future.

b. Other Unique Situations. Documentation must be provided to the state superintendent of education detailing the unique situation and justifying why a waiver should be granted.

4. Testing/Promotion Decisions

a. The DOE will communicate to the LEAs the means for establishing promotional decisions for those students who have received a state-granted waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2006 (September 2010), amended LR 40:2242 (November 2014), LR 44:

## Chapter 9. Appendix
## [Formerly Chapter 11]

### §901. Definition of Terms
### [Formerly §1101]

A. As used in this bulletin, the terms shall be defined as follows.

1. State Terms

*Acceleration*—advancement of a pupil at a rate faster than usual in or from a given grade or course. This may include "gifted student" as identified according to Bulletin 1508.

*Alternate Assessment*—the substitute way of gathering information on the performance and progress of students with disabilities who do not participate in typical state assessments.

*Alternative to Regular Placement*—placement of students in programs not required to address the state content standards.

*Content Standards*—statements of what we expect students to know and be able to do in various content areas.

*LEAP Summer Remediation Program*—the summer school program offered by the LEA for the specific purpose of preparing students to achieve proficiency in English language arts, mathematics, science, and/or social studies.

*Louisiana Educational Assessment Program* (*LEAP*)—the state's testing program that includes grades 3 through 10 in the core academic subjects of English language arts, mathematics, social studies and science.

*Promotion*—a pupil's placement from a lower to a higher grade based on local and state criteria contained in these guidelines.

*Pupil Progression Plan*—the comprehensive plan developed and adopted by each local education agency which shall be based, in significant part, on student performance on the Louisiana Educational Assessment Program with goals and objectives which are compatible with the Louisiana competency-based education program and which supplement standards approved by BESE.

*Regular Placement*—the assignment of students to classes, grades, or programs based on a set of criteria established in the pupil progression plan. Placement includes promotion, retention, remediation, and acceleration.

*Remedial Programs*—programs designed to assist students including students with disabilities and Non/Limited English Proficient (LEP) students, to overcome educational deficits identified through the Louisiana Education Assessment Program and other local criteria.

*Remediation*—see *remedial programs*.

*Retention*—nonpromotion of a pupil from a lower to a higher grade.

2. Local Terms

a. The definition of *terms* used in a local school system plan must be clearly defined for use as the basis for interpretation of the components of the plan.

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 25:2176 (November 1999), amended LR 27:190 (February 2001), LR 31:1976 (August

2005), LR 33:2064 (October 2007), LR 36: 2010 (September 2010), LR 44:

**§903. Legal Authorization**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4, and R.S. 17:394-400.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 36:2007 (September 2010), repealed LR 44:

**§905. Definition and Purpose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4, R.S. 17:395, R.S. 17:396, and R.S. 17:397.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 28:1189 (June 2002), LR 30:409 (March 2004), LR 31:1975 (August 2005), LR 33:2063 (October 2007), LR 36:2007 (September 2010), repealed LR 44:

**§907. Responsibilities of BESE**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4, R.S. 17:398, R.S. 17:399, and R.S. 17:400.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2174 (November 1999), amended LR 33:2064 (October 2007), LR 36:2008 (September 2010), repealed LR 44:

**§909. State Funding of Remedial Education Programs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4, R.S. 17:398, and R.S. 17:399.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2174 (November 1999), amended LR 33:2064 (October 2007), LR 36:2008 (September 2010), repealed LR 44:

**§911. Criteria for State Approval**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4, R.S. 17:395, R.S. 17:397, and R.S. 17:398.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999), amended LR 27:189 (February 2001), LR 30:409 (March 2004), LR 31:1975 (August 2005), LR 33:2064 (October 2007), LR 36:2008 (September 2010), repealed LR 44:

**§913. Local Program Development and Evaluation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4, R.S. 17:395, R.S. 17:397, R.S. 17:399, and R.S. 17:400.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2175 (November 1999), amended LR 27:190 (February 2001), LR 36:2009 (September 2010), repealed LR 44:

**§915. State Department of Education Responsibilities**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4; R.S. 17:400.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999), amended LR 36:2010 (September 2010), repealed LR 44:

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 25:2176 (November 1999), amended LR 27:190 (February 2001), LR 31:1976 (August 2005), LR 33:2064 (October 2007), amended LR 36:2010 (September 2010), LR 44:

## Chapter 11. Appendix A

**§1101. Definition of Terms**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999), amended LR 27:190 (February 2001), LR 31:1976 (August 2005), LR 33:2064 (October 2007), amended LR 36:2010 (September 2010), repealed LR 44:

**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 Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the

drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 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 noon, January 9, 2018, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Bulletin 1566—Pupil Progression Policies and Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be costs to local school districts as a result of the proposed changes repealing high stakes testing policy requirements and authorizing local education authorities to determine student achievement and provide remediation and academic supports. The LDE estimates there may be savings associated with the adoption of more flexible local pupil progression plans; however, the net impact is indeterminable. The Department of Education (LDE) may incur costs associated with increased monitoring and audit requirements. These potential costs are indeterminable as the audit process has not yet been determined.

There will be an increase in resource needs for local school districts associated with the multiple components of the proposed changes. This includes an expansion of subject matter from one of two (English language arts or math), to two of four subjects (English language arts, math, science, and social studies), which will be used to judge student achievement for the purpose of promotion. This will result in an increase the number of students requiring remediation. Based on recent LEAP results, the LDE projects approximately 40% of all fourth and eighth graders will require remediation in 2018 under the proposed changes, (up from 22% in 2016). Pursuant to policy, eighth grade students failing to meet the LEAP scores required for promotion to the ninth grade and prior to their progression to transitional ninth grade are required to complete summer remediation. Schools will incur costs for staffing, transportation, and other operational needs for summer programs for these additional students.

The proposed revisions require teachers of summer remediation programs to have a rating of "Highly Effective" or "Effective:Proficient" or a value-added rating of "Highly Effective" or "Effective:Proficient" on the most recent evaluation and "Highly Effective" for School Year Support strategies. Some school districts may not have a sufficient number of appropriately rated teachers to meet student demand; furthermore, these teachers may require a higher rate of pay than teachers with lower ratings.

Finally, schools will now be required to develop individual academic improvement plans for certain students which shall document the academic supports to be provided, as specified in rule. These plans must be formulated in conjunction with parents, all teachers of core subjects, and specialized support personnel. These plans must be updated annually until such time the student scores at the achievement level of "Basic" or above. This will require additional resources and/or demand additional after school overtime hours for personnel to develop and update plans and conduct these in-person meetings.

The proposed revisions authorize each local education agency to identify students who scored below the "Basic" achievement level. Fourth grade students who have not met this level may be retained or promoted. The decision to retain the student as a result of his failure to achieve the standard on the LEAP shall be made by the LEA in accordance with the local pupil progression plan. This may result in the adoption or application of different promotion standards across school districts and public charter schools. The LDE estimates an indeterminable savings for local school districts associated with this promotion authority, which could result in more students being promoted and eliminating the need for students to complete additional school years to graduation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent there are shifts in student enrollments as a result of differing pupil progression plans, local school districts could experience a loss of state funding trough the Minimum Foundation Program (MFP) as well as the reallocation of local resources to other public schools.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Public charter schools will also experience cost increases similar to the local school districts as a result of the requirements for determining student achievement and the implementation of summer remediation and academic supports associated with pupil progression. These costs will vary by school and are indeterminable at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There could be shifts in student enrollment between public schools to the extent there are different standards for student promotion. Enrollment, in part, drives the need for teachers, counselors, and school administrators. Furthermore, requirements for districts and public charters to use teachers with certain ratings will increase demand for those individuals.

Beth Scioneaux
Deputy Superintendent
1712#021

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor
### Division of Administration
### Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 303, 304, 701, 703, 706, 907, 1103, 1307, 1501, 1503, 1504, 2503 and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 2018 (2019 Orleans Parish) tax year.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

**Family Impact Statement**

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parent Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in these Proposed Rules. Implementation of this proposed Rule will have no effect on the ability of the family or local government to perform this function.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

**Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

**Public Comments**

Interested persons may submit written comments on the proposed rules until 4 p.m., January 9, 2018, at the following address Charles Abels, Tax Commission Administrator, Louisiana Tax Commission, P.O. Box 66788, Baton Rouge, LA 70896.

**Public Hearing**

A public hearing on this proposed Rule will be scheduled for Wednesday, January 24, 2018, at 10 a.m., at the Louisiana State Capitol, 900 North Third St., Baton Rouge, LA 70802.

Lawrence E. Chehardy
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Ad Valorem Taxation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules reflect annual changes in valuation procedures for taxation purposes based on the most recent available data. There are no estimated costs or savings associated with the proposed rules for state governmental units. An impact to local governmental workload resulting in an additional administrative costs will occur, but is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in a decrease of approximately $1,870,000 in revenue collections for local governments based upon revisions to valuation tables decreasing real and personal property assessments by aproximately 0.2% in total. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset pursuant to millage adjustment provisions of Article VII, Section 23 of the state Constitution.

On average, these revisions will generally decrease certain 2018 real and personal property assessments for property of similar age and condition in comparison with the latest available equivalent assessments. However, the assessments of certain property types will increase compared to prior year. Composite multiplier tables for assessment of most personal property will decrease by an estimated 1%. Specific valuation tables for assessment of pipelines will decrease by an estimated 1.5% (Onshore decrease by an estimated 1% and Offshore decrease by an estimated 2%). Oil & gas wells will increase by an estimated 4% in all regions. Drilling rigs will decrease by an estimated 1% (Land rigs 1.5%, Jack-Ups 1%, Semisubmersible Rigs 1% and Well Service Land Only Rigs no change). The net effect determined by averaging these revisions is estimated to decrease assessments by 0.2% and estimated local tax collections by $1,870,000 in FY 18/19 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

There is no impact to revenue collections of state governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The effects of these new rules on assessments of individual items of equivalent real and personal property will generally be lower in the aggregate in 2018 compared to the last year of actual data. Specific assessments of real and personal property will depend on the age and condition of the property subject to assessment. Taxpayers will be impacted based on the changes

to the valuation guidelines for assessments as listed in Section II. The magnitude will depend on the taxable property for which they are liable. Regardless of the guidelines adopted by the Tax Commission, all taxpayers continue to have the right to appeal the assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for the updates, any aggregate impact on competition and employment statewide will likely be minimal.

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|---|---|
| Lawrence D. Chehardy | Gregory V. Albrecht |
| Chairman | Chief Economist |
| 1712#046 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Health
### Board of Medical Examiners

Licensure and Certification; Continuing Medical Education on Controlled Dangerous Substances
(LAC 46:XLV.Chapter 40)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et. seq., pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270, the Louisiana Podiatry Practice Act, La. Rev. Stat. §§37:621, 37:628; the Louisiana Physician Assistant Practice Act, La. Rev. Stat. §37:1360.23, the Louisiana Medical Psychology Practice Act, La. Rev. Stat. §§37:1360.51-1360.72, and in conformity with the Uniform Controlled Dangerous Substances Law, R.S. 40:978, as amended by Act 76 of the 2017 Regular Session of the Louisiana Legislature, the Louisiana State Board of Medical Examiners (Board) intends to adopt rules requiring continuing medical education (CME) on controlled dangerous substances (CDS) prerequisite to licensure renewal for health care providers licensed by the Board whose scope of practice includes CDS prescriptive authority. The proposed rules provide for: a one-time CME requirement, definitions, identify approved/qualifying CME and how to access it, and an hour-for-hour credit towards the annual CME requirement for license renewal. Such rules also provide for CME documentation, non-compliance, an exception for non-prescribers of CDS, and resolution of conflicts with the Board's other CME rules. The proposed rules are set forth here.

### Title 46
### PROFESSIONAL AND OCCUPATIONAL STANDARDS
### Part XLV. Medical Professions
### Subpart 2. Licensure and Certification
### Chapter 40. Continuing Medical Education on Controlled Dangerous Substances
### Subchapter A. General Provisions
### §4001. Scope of Chapter

A. The rules of this Subchapter provide for the one-time continuing medical education (CME) requirement for controlled dangerous substances prerequisite to license renewal of an authorized prescriber, and prescribe definitions and the procedures applicable to approved/qualifying CME, credit for satisfaction, documentation, non-compliance, an exception and conflict resolution with other CME rules of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:

### §4003. Definitions

A. As used in this Subchapter, the following terms and phrases shall have the meanings specified.

*Authorized Prescriber*—a physician, podiatrist, physician assistant, medical psychologist and any other category of health care provider as may hereafter be licensed by the board under this Part, whose scope of practice includes authority to prescribe, dispense, or administer CDS.

*Board*—the Louisiana State Board of Medical Examiners, as constituted under R.S. 37:1263.

*Controlled Dangerous Substances* or *CDS*—any substance defined, enumerated or included in federal or state statute or regulations 21 CFR §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:

### §4005. Continuing Medical Educational Requirement for Controlled Dangerous Substances

A. CME Requirement for Authorized Prescribers of CDS. Notwithstanding any other provision of this Part, every authorized prescriber seeking the renewal of a license for the first time on and after January 1, 2019, shall, as part of the CME required by this Part, and as a condition prerequisite to licensure renewal, successfully complete three hours of CME approved by the board on CDS prescribing practices (the CME requirement). Such CME shall include instruction relating to drug diversion training, best practices regarding prescribing of CDS, appropriate treatment for addiction and, for physicians, the treatment of chronic pain. The CME requirement may be satisfied by completing a three-hour CME program, three one-hour CME programs, or any other combination of CME programs totaling three-hours.

B. Approved/Qualifying Continuing Medical Education Programs. Any:

1. category 1 CME program sponsored or offered by an organization or entity approved under Sections 437, 1375, 1529.D or 3955 of this Part to sponsor or offer CME for purposes of license renewal of physicians, podiatrists, physician assistants, or medical psychologist, respectively, shall be deemed approved for purposes of satisfying the CME requirement provided:

a. the board or its designee determines the CME program adequately addresses the areas of required instruction set forth in Section 4005.A; and

b. such organization or entity is capable of submitting proof of an attendee's completion of the CME activity electronically to the board;

2. CME program developed by the board, whether category 1 or otherwise, shall be deemed approved for purposes of satisfying the CME requirement;

3. information on how to access approved, qualifying CME will be maintained by the board and made available on its website www.lsbme.la.gov.

C. CME Credit. An authorized prescriber required to complete the CME requirement shall receive an hour-for-hour credit towards the annual requirement for CME provided in this Part for license renewal.

D. Documentation:

1. authorized prescribers shall request the organization or entity sponsoring or offering the CME to submit proof of completion of the CME activity electronically to the board in a form and manner specified by the board;

2. an authorized prescriber shall maintain a record of completion of the CME activity for four years. Satisfactory evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

a. program title(s);

b. sponsor(s) name;

c. attendee's name;

d. inclusive date or dates and location of the CME event; and

e. documented verification of successful completion of the CME activity by stamp, signature, official or other proof acceptable to the board;

3. if more than one CME activity is taken to meet the CME requirement a record of completion of each activity shall be maintained;

4. CME which is not approved by the board shall not satisfy the CME requirement.

E. Non-Compliance; Reinstatement of Licensure. The license of an authorized prescriber:

1. who fails to comply with the CME requirement shall not be renewed by the board;

2. which has not been renewed for failure to satisfy the CME requirement may be reinstated upon application to the board, accompanied by payment of the renewal fee required by Subpart 1 of these rules, in addition to all other applicable fees and costs, together with confirmation of completion of the CME required by this Section.

F. Exception. An authorized prescriber renewing his/her license for the first time on and after January 1, 2019, may be excused from the CME requirement upon the submission of certification, in a form and manner specified by the board, attesting that he/she has not prescribed, administered or dispensed any CDS during the entire year covered by the authorized prescriber's expiring license. The certification shall be verified by the board through the Louisiana Prescription Monitoring Program Act, R.S. 40:1001 et seq. An exempted individual who subsequently prescribes, administers or dispenses a CDS shall satisfy the CME requirement as a condition to license renewal for the year immediately following that in which the CDS was prescribed, administered or dispensed.

G. Conflict. In the event of a conflict between the provisions of this Section concerning the one-time CME requirement for CDS, and those of any other Section in this Part, the provisions of this Section shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed rules on the family has been considered. It is not anticipated that the proposed rules will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed rules on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed rules will have any 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 HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed rules on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed rules will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

**Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed rules to 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. Written comments will be accepted until 4 p.m., January 19, 2018.

**Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Wednesday, January 24, 2018 at 9:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Licensure and Certification; Continuing Medical Education on Controlled Dangerous Substances**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will result in a one-time publication cost of $455 for the LA State Board of Medical Examiners (BME) and a nominal workload increase that the BME will absorb using existing resources and budget authority. The BME

is promulgating the proposed rules to comply with Act 76 of the 2017 Regular Session, requiring its licensees whose scope of practice includes prescribing controlled dangerous substances (CDS), to satisfy a one-time three hour continuing medical education (CME) requirement on the prescribing of controlled dangerous substances (CDS) as a prerequisite to license renewal. The BME currently has over 18,000 physicians, podiatrists, physician assistants and medical psychologists who potentially fall within the scope of the proposed rules. The proposed rules include an exception for those attesting that they have not prescribed, dispensed or administered a CDS during the entire reporting period (expiring license) from compliance, require the BME to verify the attestation through the prescription monitoring program, and retain and submit aggregate annual compliance documentation to the Senate and House Committees on Health & Welfare.

The BME anticipates devoting some administrative resources to approving programs that qualify for the CME credit, developing and processing compliance documentation, exceptions, non-compliance and reporting to the legislature. Because the majority of the information associated with these tasks will be included in and processed with improved online systems for annual license renewal, the BME will absorb the increase in administrative workload with existing personnel and resources. Publication costs associated with the proposed rules are estimated to cost the BME $455. Otherwise, the proposed rules will not result in a material impact for the BME or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Affected licensees will need to satisfy a one-time three-hour CME requirement for CDS as a prerequisite to renewing their license for the first time on and after January 1, 2019. Authorized prescribers who do not complete the required CME course on controlled dangerous substances will not be relicensed by the BME until the requirement is satisfied. The CME must be taken during the year 2018, so that current licensees may satisfy the requirement in advance of renewing their license in 2019. Individuals licensed after January 2019 will need to satisfy the requirement before renewing their license for the first time in the year following initial license issuance. Under current rule, all authorized prescribers are required to complete a specified amount of CME annually as a prerequisite to license renewal. The proposed three hours of CME on CDS will count toward (and not in addition to) the existing CME requirement. Some providers will offer the required CME at no cost, while other providers may charge for the activity, representing a potential, though likely marginal, cost for licensees to the extent they must pay for the CME.

Furthermore, an exception is provided to those who have not prescribed, dispensed or administered a CDS during the entire year prior to license renewal. Reporting compliance or an exception to the CME requirement will be made part of the license renewal process. Therefore, the proposed rules are not anticipated to have a material effect on costs, paperwork, workload, receipts or income of authorized prescribers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not affect competition and/or employment.

| | |
|---|---|
| Vincent A. Culotta, Jr., M.D. | John D. Carpenter |
| Executive Director | Legislative Fiscal Officer |
| 1712#050 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Health
### Bureau of Health Services Financing

Family Planning Services (LAC 50:XV.25501)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.25501 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requires that the Medicaid State Plan align with the State Plan amendment governing Medicaid expansion. In order to comply with CMS requirements, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing family planning services to remove the limitation on office visits for physical examinations for family planning and family planning-related services.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 17. Family Planning Services**

**Chapter 255. Services**

**§25501. Covered Services**

A. Medicaid covered family planning services include:

1. office visits and necessary re-visits for physical examinations as it relates to family planning or family planning-related services;

2. - B.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1098 (June 2014), amended LR 41:379 (February 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

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

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will improve health outcomes by providing unlimited access to family planning and family planning-related services.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:973 as it will reduce the financial burden for participants

in need of family planning and family planning-related 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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, January 25, 2018 at 9:30 a.m. in Room 173, 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.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Family Planning Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18 due to the majority of the state plan family planning recipients transitioning to Medicaid expansion in July 2016. The remaining recipients in this program historically do not exceed the seven visit limit; however, there may be potential for an increase in family planning expenditures should the utilization of these services go up beyond the customary seven visits. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that $216 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing family planning services to remove the limitation on office visits for physical examinations for family planning and family planning-related services to align the Medicaid State Plan with the approved State Plan amendment governing Medicaid expansion, in compliance with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' requirements. It is anticipated that implementation of this proposed rule will not result in costs to providers of family planning services for FY 17-18, FY 18-19 and FY 19-20; however, it may be beneficial to providers should provider payments increase as a result of the utilization of family planning services exceeding the customary seven visits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

| | |
|---|---|
| Jen Steele | Evan Brasseaux |
| Medicaid Director | Staff Director |
| 1712#021 | Legislative Fiscal Office |

**NOTICE OF INTENT**

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

Hospice Licensing Standards (LAC 48:I.Chapter 82)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 82 as authorized by R.S. 36:254 and R.S. 40:2181-2191. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing hospice licensing standards in order clarify and update these provisions to be consistent with other licensing Rules and processes and to ensure that they are promulgated in a clear and concise manner in the *Louisiana Administrative Code*.

**Title 48**
**PUBLIC HEALTH—GENERAL**
**Part I. General Administration**
**Subpart 3. Licensing and Certification**
**Chapter 82. Minimum Standards for Licensure of Hospice Agencies**
**Subchapter A. General Provisions**
**§8201. Definitions**

A. ...

*Activities of Daily Living* (*ADL's*)—the following functions or self-care tasks performed either independently or with supervision or assistance:

a. - h. ...

* * *

*Advance Directives*—a witnessed document, statement, or expression voluntarily made by the declarant, authorizing the withholding or withdrawal of life-sustaining procedures. A declaration may be made in writing, such as a durable power of attorney for health care, a directive pursuant to patient self-determination initiatives, a living will, or by other means of communication such as an oral directive which either states a person's choices for medical treatment or, in the event the person is unable to make treatment choices, designates who shall make those decisions.

*Advanced Practice Registered Nurse* (*APRN*)—a nurse who is legally authorized to practice advanced practice nursing in the State and designated by the patient as the

licensed medical practitioner responsible for his/her medical care.

*Attending/Primary Physician*—a person who is a doctor of medicine or osteopathy licensed to practice medicine in the State of Louisiana, who is designated by the patient as the physician responsible for his/her medical care.

*Bereavement Services*—organized services provided under the supervision of a qualified professional to help the family cope with death related grief and loss issues. This shall be provided for at least one year following the death of the patient.

*Branch*—an alternative delivery site from which a hospice agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the parent hospice agency and is located within a 50 mile radius of the parent agency and shares administration and supervision.

*Bureau*—Repealed.

* * *

*Certified Nurse Aide* (*CNA*) *Registry*—the state registry used to determine if a prospective hire who is a CNA has had a finding placed on the registry that he/she has abused or neglected a resident or misappropriated a resident's property or funds.

*Cessation of Business*—provider is non-operational and/or has stopped offering or providing services to the community.

* * *

*Continuous Home Care*—care provided by the hospice during a period of crisis as necessary to maintain the terminally ill individual at home. A minimum of eight hours of care shall be furnished on a particular day to be considered continuous home care. Nursing care shall be provided for more than one half of the period of care and shall be provided by either a registered nurse or licensed practical nurse. Services may be provided by a homemaker or home health aide to supplement the nursing care. A registered nurse shall complete an assessment of the patient and determine that the patient requires continuous home care prior to assigning a licensed practical nurse, homemaker, or a hospice aide to a patient requiring continuous home care. This assignment must comply with accepted professional standards of practice.

* * *

*Core Services*—nursing services, licensed medical practitioner services, medical social services, and counseling services, including bereavement counseling, dietary counseling, spiritual counseling, and any other counseling services provided to meet the needs of the individual and family. These services shall be provided by employees of the hospice, except that licensed medical practitioner services and dietary counseling services may be provided through contract. Core services also include support services, such as trained volunteers.

*Department*—the Department of Health (LDH).

*Direct Service Worker* (*DSW*)—an unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the person. Functions performed may include, but are not limited to, assistance in activities of daily living and personal care services. An example of a DSW may be a hospice or home health aide or homemaker.

* * *

*Employee*—an individual who may be contracted, hired for a staff position or a volunteer under the jurisdiction of the hospice.

*Facility-Based Care*—hospice services delivered in a place other than the patient's home, such as an inpatient hospice facility, nursing facility or hospital inpatient unit.

* * *

*Geographic Area*—area around location of licensed agency which is within 50 mile radius of the hospice premises. Each hospice shall designate the geographic area in which the agency will provide services.

*Governing Body*—the person or group of persons that assumes full legal responsibility for determining, implementing and monitoring policies governing the hospice's total operation. The governing body shall designate an individual who is responsible for the day-to-day management of the hospice program, and shall also ensure that all services provided are consistent with accepted standards of practice. Written minutes and attendance of governing body meetings are to be maintained.

*Health Standards Section* (*HSS*)—the agency within the Department of Health responsible for regulation of licensed health care providers, agencies or facilities.

* * *

*Hospice Inpatient Facility*—a facility where specific levels of hospice care ranging from residential to acute, including respite, are provided in order to meet the needs of the patient/family.

*Hospice Inpatient Services*—care and services available for pain control, symptom management and/or respite purposes that are provided for a patient either directly by the hospice agency or in a participating facility.

*Hospice Physician*—a person who is a doctor of medicine or osteopathy, and is currently and legally authorized to practice medicine in the State of Louisiana, designated by the hospice to provide medical care to hospice patients in lieu of their primary licensed medical practitioner.

*Hospice Premises*—the physical site where the hospice maintains staff to perform administrative functions, and maintains its personnel records, or maintains its patient service records, or holds itself out to the public as being a location for receipt of patient referrals.

* * *

*Inpatient Services*—Repealed.

*Interdisciplinary Team* (*IDT*)—an interdisciplinary team or teams designated by the hospice, composed of representatives from all the core services. The IDT shall include at least a doctor of medicine or osteopathy, a registered nurse, a social worker, a pastoral or other counselor, and a representative of the volunteer services. The interdisciplinary team is responsible for participation in the establishment of the plan of care; provision or supervision of hospice care and services; periodic review and updating of the plan of care for each individual receiving hospice care, and establishment of policies governing the day-to-day provision of hospice care and services. If a hospice has more than one interdisciplinary team, it shall designate in advance the team it chooses to execute the establishment of policies

governing the day-to-day provision of hospice care and services.

*Interdisciplinary Team Conferences*—regularly scheduled periodic meetings of specific members of the interdisciplinary team to review the most current patient/family assessment, evaluate care needs, and update the plan of care.

*Louisiana At-Risk Registry*—the reporting mechanism for hospice patients that require community assistance in emergency situations.

*Louisiana Physician Order for Scope of Treatment* (*LaPOST*)—a physician's order that documents the wishes of a qualified patient for life-sustaining interventions, as well as the patient's preferred treatment for each intervention, on a form that is recognized, adopted, and honored across treatment settings in accordance with state laws.

* * *

*Major Alteration*—any repair or replacement of building materials and equipment which does not meet the definition of minor alteration.

* * *

*Minor Alteration*—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction below that which existed prior to the alteration. This does not include any alteration to the function or original design of the construction.

*Non-Core Services*—services provided directly by hospice employees or under arrangement. These services include, but are not limited to:

a. hospice aide and homemaker;

b. - f. ...

*Non-Operational*—the hospice agency location is not open for business operation on designated days and hours as stated on the licensing application and business location signage.

*Palliative Care*—the reduction or abatement of pain or other troubling symptoms by appropriate coordination of all services of the hospice care team required to achieve needed relief of distress.

* * *

*Plan of Care* (*POC*)—a written document established and maintained for each individual admitted to a hospice program. Care provided to an individual shall be in accordance with the plan. The plan includes an assessment of the individual's needs and identification of the services including the management of discomfort and symptom relief.

* * *

*Residential Care*—hospice care provided in a nursing facility, adult residential facility or any residence or facility other than the patient's private residence.

* * *

*Sub-Unit*—Repealed.

*Sublicense*—a license issued for the inpatient hospice facility that provides inpatient hospice services directly under the operation and management of the licensed hospice entity.

*Terminally Ill*—a medical prognosis of limited expected survival, of approximately six months or less at the time of referral to a hospice, of an individual who is experiencing an illness for which therapeutic strategies directed toward cure and control of the disease alone are no longer appropriate. Therapeutic strategies by the hospice agency are directed toward pain and symptom management of the terminal illness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2257 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8203. Licensing**

A. Except to the extent required by §8205.A.1, it shall be unlawful to operate or maintain a hospice without first obtaining a license from the department. The Department of Health is the only licensing authority for hospice in the state of Louisiana.

B. - C.2. ...

a. At the sole discretion of the department, the provisional license may be extended for a period of time, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

b. ...

c. LDH may re-issue a provisional license or allow a provisional license to expire when the hospice fails to correct violations within 60 days of being cited, or at the time of the follow-up survey, whichever occurs first.

d. A provisional license may be issued by LDH for the following non-exclusive reasons:

i. - v. ...

e. Agency fails to submit assessed fees after notification by LDH.

f. ...

D. Display of License. The current license shall be displayed in a conspicuous place inside the hospice program office at all times. A license shall be valid only in the possession of the agency to which it is issued. A license shall not be subject to sale, assignment, or other transfer, voluntary or involuntary. A license shall not be valid for any hospice other than the hospice for which originally issued. If an agency has been issued a sublicense for its hospice inpatient facility, both license and sublicense shall be displayed.

E. Initial Licensure. All requirements of the application process shall be completed by the applicant before the application will be processed by LDH. Each hospice applicant shall obtain facility need review approval prior to submission of initial licensing application.

1. No application will be reviewed until the application fee is received.

2. An initial applicant shall, as a condition of licensure, submit the following:

a. a complete and accurate Hospice Application Packet. (This packet may be printed from the LDH-Hospice webpage or may be purchased from LDH-HSS and contains the forms required for initial hospice licensure. The address provided on the application shall be the address from which the agency will be operating;

b. current required licensing fee by certified check, company check, or money order;

NOTE: Payment of any fees shall be submitted to the department's required payment source.

c. line of credit from a federally insured, licensed, lending agency for at least $75,000 as proof of adequate finances to sustain the hospice agency for at least six months;

d. proof of general and professional liability insurance, and worker's compensation of at least $300,000. The certificate holder shall be the Department of Health;

e. documentation of qualifications for administrator, director of nursing, and medical director. Any changes in the individuals designated or in their qualifications shall be submitted to and approved by LDH prior to the initial survey;

f. ...

g. proof of statewide criminal background investigations conducted by the Louisiana State Police, or its designee, on the administrator and all owners. If a corporation, submit proof of statewide criminal background investigations conducted by the Louisiana State Police, or its designee, on all board of directors and principal owners; and

h. if the hospice agency is also applying for an inpatient facility, then an 8 1/2 x 11 inch drawing of the physical plant shall be submitted and any other documentation requested by the department for licensure of the agency.

F. Denial of Initial Licensure. An applicant may be denied an initial license for the following reasons:

1. - 3. ...

G. Provisional Initial Licensure. In the event that the initial licensing survey finds that the hospice agency is noncompliant with any licensing laws, rules or regulations, the department, in its sole discretion, may determine that the noncompliance does not present a threat to the health, safety, or welfare of the patients, and may issue a provisional initial license for a period not to exceed six months.

1. The provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

a. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license shall be issued.

b. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new application packet and fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2259 (December 1998), LR 25:2409 (December 1999), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8205. Survey**

A. ...

1. Within 90 days after submitting its application and fee, the hospice shall complete the application process, shall become operational to the extent of providing care to only two outpatients, shall be in substantial compliance with applicable federal, state, and local laws, and shall be prepared for the initial survey. If the applicant fails to meet this deadline, the application shall be considered closed and the agency shall be required to submit a new application packet including the license application fee.

2. The hospice agency that applies for an inpatient facility license shall not provide care to patients in the agency's inpatient hospice facility setting prior to the initial survey and achieving inpatient facility licensure.

3. The initial survey will be scheduled after the agency notifies the department that the agency had become operational and is ready for the survey as provided in §8205.A.1.

4. If, at the initial licensing survey, the agency is in substantial compliance with all regulations, a full license will be issued.

5. If, at the initial licensure survey, an agency has more than five violations of any minimum standards or if any of the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm, LDH shall deny licensing.

B. Licensing Survey. An unannounced on-site visit, or any other survey, which may include home visits, may be conducted periodically to assure compliance with all applicable federal, state, and local laws and/or any other requirements.

C. Follow-up Survey. An on-site follow-up may be conducted whenever necessary to assure correction of violations. When applicable, LDH may clear violations at exit interview and/or by documentation review.

D. Statement of Deficiencies

1. The department shall issue written notice to the agency of the results of any surveys in a statement of deficiencies, along with notice of specified timeframe for a plan of correction, if appropriate.

2. Any statement of deficiencies issued by the department to a hospice agency shall be available for disclosure to the public 30 calendar days after the agency submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the agency, whichever occurs first.

E. Complaint Investigations

1. The department shall conduct complaint investigations in accordance with R.S. 40:2009.13 et seq.

2. Complaint investigations shall be unannounced.

3. Upon request by the department, an acceptable plan of correction shall be submitted by the agency for any complaint investigation where deficiencies have been cited. Such plan of correction shall be submitted within the prescribed timeframe.

4. A follow-up survey may be conducted for any complaint investigation where deficiencies have been cited to ensure correction of the deficient practices.

5. The department may issue appropriate sanctions, including but not limited to, civil fines, directed plans of correction, provisional licensure, denial of license renewal, and license revocation for non-compliance with any state law or regulation.

6. The department's surveyors and staff shall be given access to all areas of the hospice agency and all relevant files during any complaint investigation. The department's surveyors and staff shall be allowed to interview any agency staff or patient as necessary or required to conduct the investigation.

F. Unless otherwise provided in statute or in this Chapter, the hospice agency shall have the right to an informal reconsideration for any deficiencies cited as a result of a survey or an investigation.

1. Correction of the deficient practice, of the violation, or of the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be submitted in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for license denials, revocations, and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The agency shall be notified in writing of the results of the informal reconsideration.

6. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does not delay submission of the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2260 (December 1998), LR 25:2409 (December 1999), LR 29:2800 (December 2003) , amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8207. Revocation or Denial of Initial License or Renewal of License**

A. The secretary of LDH may deny an application for a license, or refuse to renew a license or revoke a license in accordance with R.S. 40:2187-2188. An agency's license may not be renewed and/or may be revoked for any of the following:

1. - 7. ...

8. failure to submit fees including, but not limited to, annual fee, renewal fee, provisional follow-up fee, or change of agency address or name, or any fines assessed by LDH;

9. failure to allow surveyors entry to hospice agency or access to any requested records during any survey;

10. failure to protect patient from unsafe skilled and/or unskilled care by any person employed or contracted by the agency;

11. agency staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:

a. application for licensure;

b. data forms;

c. clinical record;

d. matter under investigation by the department;

e. information submitted for reimbursement from any payment source;

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

g. that the agency staff misrepresented or was fraudulent in conducting hospice business; or

h. convictions of a felony by an owner, administrator, director of nursing or medical director as shown by a certified copy of the record of the court of conviction of the above individual; or if the applicant is a firm or corporation, of any of its members or officers, or of the person designated to manage or supervise the hospice agency;

12. failure to maintain proper insurance; or

13. failure to comply with all reporting requirements in a timely manner.

13.a. - 15. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2260 (December 1998), LR 29:2800 (December 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8209. License Renewal Process**

A. License shall be renewed annually.

B. ....

C. An agency seeking a renewal of its hospice license shall:

1. request a renewal packet from HSS if one is not received at least 45 days prior to license expiration;

2. complete all forms and return to HSS at least 30 days prior to license expiration;

3. submit the current annual licensure fees with packet. An application is not considered to have been submitted unless the required licensure fees are received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2261 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8211. Notice and Appeal Procedure for Revocation of Licensure and Denial of Initial License or License Renewal**

A. ...

B. Administrative Reconsideration

1. The hospice agency may request an administrative reconsideration of the violation(s) which support the department’s actions.

a. The request for reconsideration shall be made, and received by the department, within 15 calendar days of receipt of notice.

2. The reconsideration shall be conducted by a designated official(s) of the department who did not participate in the initial decision to impose the actions taken.

a. Reconsideration shall be made solely on the basis of documents before the official and shall include the survey report and statement of violations, and all documentation the agency submits to the department at the time of the agency's request for reconsideration.

b. Oral presentations may be made by the department's spokesperson(s) and the agency's spokesperson(s).

c. The designated official shall have authority only to affirm the decision, to revoke the decision, to affirm part and revoke part, or to request additional information from either the department or the agency.

3. Correction of a violation shall not be a basis for reconsideration.

4. This process is not in lieu of the appeals process and may extend the time limits for filing an administrative appeal.

C. Administrative Appeal Process

1. Upon refusal of LDH to grant or renew a license as provided in the current State Statutes, or upon revocation or suspension of a license, or the imposition of a fine, the affected agency, institution, corporation, person, or other group shall have the right to appeal such action by submitting a written request to the Division of Administrative Law (DAL) or its successor:

a. within 30 days after receipt of the notification of the refusal, revocation, suspension of a license, or imposition of a fine; or

b. within 30 days after receipt of the notification of the results of the administrative reconsideration of the department's action.

2. Hearings shall be conducted by the DAL in accordance with the Administrative Procedure Act (APA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2261 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8213. Fees**

A. Any remittance submitted in payment of a required fee shall be in the form of a company or certified check or money order made payable to the "Louisiana Department of Health".

B. Fee amounts are determined by LDH. (Check with LDH to determine the current required fees.)

C. Fees paid to LDH are not refundable.

D. A licensing fee is required for:

1. - 2. ...

3. a change of controlling ownership; and

4. a change of location.

E. Additional licensure fees are required for inpatient hospice facilities which includes the required licensing fee and per unit fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2261 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8215. Changes**

A. LDH shall be notified, in writing, of any of the following within five working days following the occurrence:

1. address/location (an inpatient hospice facility shall notify and receive approval by LDH prior to a change of address/location)—fee required;

2. - 5. ...

6. change in address of any branch office—fee required;

7. administrator (completed key personnel change form, obtained from LDH required);

8. director of nursing (completed key personnel change form required); or

9. cessation of business in accordance with the requirements of §8243.

B. Change of Ownership. A representative of the buyer shall request approval for a change of ownership prior to the sale.

1. Submit a written notice to LDH for a change of ownership. Change of ownership (CHOW) packets may be obtained from LDH. If the hospice had less than two active patients at the time of the most recent survey, and less than twenty new patients admitted since the last annual survey, the department may have issued a provisional license. Only an agency with a full license shall be approved to undergo a change of ownership.

2. Submit the following documents for a CHOW:

a. a new license application and the current licensing fee. The purchaser of the agency shall meet all criteria required for initial licensure for hospice in accordance with the provisions of §8203;

b. - c. ...

d. disclosure of ownership forms; and

e. a copy of the bill of sale and articles of incorporation.

3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2262 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8216. Emergency Preparedness**

A. The hospice shall annually conduct and document an all hazard vulnerability or risk assessment for the agency's patients, both outpatient and inpatient.

B. The hospice shall develop an emergency responsiveness plan based on the risk assessment, inclusive of the following but not limited to:

1. preparation for evacuation;

2. training of employees;

3. patient and caregiver education and individual preparedness;

4. tracking of staff and patients;

5. communication and chain of command;

6. sheltering in place; and

7. coordination with local and state emergency operation offices.

C. The hospice shall update the "Louisiana At-Risk Registry" or other current state-required reporting mechanism as needed based on the following hospice patient criteria:

1. patients who live alone, without a caregiver and are unable to evacuate themselves;

2. patients with a caregiver physically or mentally incapable of carrying through on an evacuation order;

3. patients/caregivers without the financial means to carry through on an evacuation order; or

4. patients/caregivers refusing to evacuate.

D. The governing body shall be responsible to develop and annually review and document approval of the hospice agency's emergency plans, policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

**Subchapter B. Organization and Staffing**

**§8217. Personnel Qualifications/Responsibilities**

A. Administrator. A person who is designated, in writing, by the governing body as administratively responsible for all aspects of hospice operations. When the administrator serves more than one licensed agency, he/she shall designate, in writing, an alternate to serve as administrator for each site where he/she is not physically housed continuously. The administrator may not serve more than two licensed agencies. The alternate shall be a full-time, on-site employee of the hospice and shall meet the same qualifications as the administrator. The administrator and the director of nurses/alternates may be the same individual if that individual is dually qualified.

NOTE: Repealed.

1. Qualifications. The administrator shall be a licensed physician, a licensed registered nurse, a social worker with a master's degree, or a college graduate with a bachelor's degree and at least three years of documented management experience in health care service delivery. However, a person who was employed by a licensed Louisiana hospice as the administrator as of December 20, 1998 shall be exempt from these requirements as long as he/she remains employed by that hospice as the administrator. If the hospice is sold to, acquired by, or merged into another legal entity, such transaction shall have no effect on the exemption provided in the preceding sentence.

2. - 2.f. ...

g. designate in advance the IDT he/she chooses to establish policies governing the day-to-day provisions of hospice care.

3. Continuing Education. The administrator shall annually obtain two continuing education hours relative to the administrator's role, including but not limited to the following topics:

a. Medicare and Medicaid regulations;

b. management practices;

c. labor laws; and

d. Occupational Safety and Health Administration rules, laws, etc.

B. - B.1. ...

2. Responsibilities. Under the supervision of a qualified professional, and as part of an organized program for the provision of bereavement services, the counselor shall implement bereavement counseling in a manner consistent with standards of practice. Services include, but are not limited to the following:

a. - c. ...

d. attend hospice IDT meetings; and

e. document bereavement services provided and progress of bereaved on a clinical progress note to be incorporated into the clinical record.

3. Continuing Education. The bereavement counselor shall annually obtain two continuing education hours relative to the bereavement counselor's role, including but not limited to the following topics:

a. death and dying cultures;

b. suicide;

c. compassion fatigue;

d. anticipatory grief;

e. patient survivors;

f. grief groups;

g. grief;

h. loss;

i. adjustment;

j. ethics; and

k. advanced directives and LaPOST.

C. - C.1. ...

2. Responsibilities. The dietitian shall implement dietary services based on initial and ongoing assessment of dietary needs in a manner consistent with standards of practice including, but not limited to, the following:

a. ...

b. collaborate with the patient/family, physician, registered nurse, and/or the IDT in providing dietary counseling to the patient/family;

c. - e. ...

f. participate in IDT conference as needed; and

C.2.g. - D. ...

1. Qualifications. Documented evidence of appropriate training and skills to provide spiritual counseling, such as bachelor of divinity, master of divinity or equivalent theological degree or training from an accredited school or university. An individual may qualify as a spiritual counselor without said degree if he/she has documented skills to provide spiritual counseling and has received equivalent training and supervision from an individual who meets one of the above qualifications.

2. Responsibilities. The counselor shall provide spiritual counseling based on the initial and ongoing assessment of spiritual needs of the patient/family, in a manner consistent with standards of practice including, but not limited to, the following:

a. ...

b. provide consultation, support, and education to the IDT members on spiritual care;

c. ...

d. attend IDT meetings.

3. Continuing Education. The spiritual counselor shall annually obtain at least two hours of continuing education related to the following topics, including but not limited to:

a. end of life care;

b. cultural religious practices;

c. compassion fatigue;

d. suicide;

e. documentation;

f. ethics;

g. grief;

h. loss;

i. adjustment; and

j. advanced directives and LaPOST.

E. *Director of Nurses* (*DON*)—a person designated, in writing, by the governing body to supervise all aspects of patient care, all activities of professional staff and allied health personnel, and responsible for compliance with regulatory requirements. The DON, or alternate, shall be immediately available to be on site, or on site, at all times during operating hours, and additionally as needed. If the

DON is unavailable he/she shall designate a registered nurse to be responsible during his/her absence.

1. Qualifications. A registered nurse shall be currently licensed to practice in the state of Louisiana:

1.a. - 2.e.vi. ...

vii. assure participation in regularly scheduled appropriate continuing education for all health professionals and hospice aides and homemakers;

E.2.e.viii. - F. ...

1. The hospice shall have a governing body that assumes full legal responsibility for determining, implementing and monitoring policies governing the hospice's total operation, inclusive of any inpatient hospice services.

2. - 3.e. ...

G. Hospice Aide/Homemaker. A qualified person who provides direct patient care and/or housekeeping duties in the home or homelike setting under the direct supervision of a registered nurse.

1. Qualifications. The hospice aide/homemaker shall meet one of the training requirements listed in §8217.G.1.a-c and shall meet all other requirements of §8217.G.1.d-g:

a. have current certified hospice and palliative nursing assistant (CHPNA) certification and have successfully completed a hospice aide competency evaluation; or

b. have successfully completed a hospice aide training program and have successfully completed a competency evaluation; or

c. have successfully completed a hospice aide competency evaluation; and

d. ...

e. have the ability to read, write, and carry out directions promptly and accurately;

f. competency shall be evaluated by a RN prior to hospice aide performing patient care; and

g. when employed by more than one agency, inform all employers and coordinate duties to assure highest quality when providing services to the patients; and

NOTE: The hospice aide competency evaluation is to be completed by a registered nurse prior to the hospice aide being assigned to provide patient care.

h. shall not have a finding of abuse, neglect or misappropriation placed against him/her on the Louisiana direct service worker (DSW) registry or the Louisiana certified nurse side (CNA) registry.

2. Responsibilities. The hospice aide/homemaker shall provide services established and delegated in the POC, record and notify the primary registered nurse of deviations according to standard practice including, but not limited to, the following:

a. perform simple one-step wound care if written documentation of in-service for that specific procedure is in the aide's personnel record. All procedures performed by the aide shall be in compliance with current standards of nursing practice;

b. - b.iv. ...

v. helping the patient with prescribed exercises which the patient and hospice aide have been taught by appropriate personnel; and

vi. ...

d. complete a clinical note for each visit, which shall be incorporated into the record at least on a weekly basis.

3. Restrictions. The hospice aide/homemaker shall not:

a. - b. ...

4. Initial Orientation. The content of the basic orientation provided to hospice aides shall include the following:

a. ...

b. duties and responsibilities of a hospice aide/homemaker;

c. the role of the hospice aide/homemaker as a member of the health care team;

d. - k. ...

NOTE: The orientation and training curricula for hospice aides/homemakers shall be detailed in a policies and procedures manual maintained by the hospice agency and provision of orientation and training shall be documented in the employee personnel record.

5. Initial training shall include the following areas of instruction for personal care and support:

a. - c. ...

d. procedures for maintaining a clean, healthful environment;

e. changes in the patients' condition to be reported to the supervisor;

f. confidentiality;

g. patients' rights and responsibilities; and

h. emergency preparedness.

6. In-service Training. Hospice aide/homemaker shall have a minimum of 12 hours of job-related in-service training annually specific to their job responsibilities within the previous 12 months:

a. at least two hours shall focus on end of life care annually; and

b. six of the twelve hours of job-related in service training shall be provided every six months.

7. In-service training may be prorated for employees working a portion of the year. However, part-time employees who worked throughout the year shall attend all 12 hours of in-service training. The in-service may be furnished while the aide is providing service to the patient, but shall be documented as training.

H. Licensed Practical Nurse. The LPN shall work under the direct supervision of a registered nurse and perform skilled nursing services as delegated by the registered nurse. The role of the LPN in hospice is limited to stable hospice patients.

1. Qualifications. A licensed practical nurse shall be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions:

a. - b. ...

c. when employed by more than one agency the LPN shall inform all employers and coordinate duties to assure quality provision of services.

2. - 2.g. ...

h. perform routine venipuncture (phlebotomy) if written documentation of competency is in personnel record. Competency shall be evaluated by an RN even if LPN has completed a certification course; and

i. receive orders from the licensed medical practitioner and follow those that are within the realm of practice for an LPN and within the standards of hospice practice.

3. Restrictions. An LPN shall not:

a. - e. ...

f. make aide assignments;

g. function as a supervisor of the nursing practice of any registered nurse; or

h. function as primary on-call nurse.

I. Medical Director/Physician Designee and Advanced Practice Registered Nurse

NOTE: Repealed.

1. The medical director/physician designee shall be a physician, currently and legally authorized to practice in the state, and knowledgeable about the medical and psychosocial aspects of hospice care. The medical director reviews, coordinates, and is responsible for the management of clinical and medical care for all patients, inclusive of any inpatient hospice patient.

NOTE: The medical director or physician designee may be an employee or a volunteer of the hospice agency. The hospice agency may also contract for the services of the medical director or physician designee.

a. Qualifications. A doctor of medicine or osteopathy licensed to practice in the state of Louisiana.

b. Responsibilities. The medical director or physician designee assumes overall responsibility for the medical component of the hospice's patient care program and shall include, but not be limited to:

i. serve as a consultant with the attending physician regarding pain and symptom control as needed;

ii. serve as the attending physician if designated by the patient/family unit;

iii. review patient eligibility for hospice services;

iv. serve as a medical resource for the hospice interdisciplinary team;

v. act as a liaison to physicians in the community;

vi. develop and coordinate procedures for the provision of emergency care;

vii. provide a system to assure continuing education for hospice medical staff as needed;

viii. participate in the development of the POC prior to providing care, unless the POC has been established by an attending physician who is not also the medical director or physician designee;

ix. participate in the review and update of the POC, unless the plan of care has been reviewed/updated by the attending physician who is not also the medical director or physician designee. These reviews shall be documented;

x. develop and coordinate policies and procedures for the provision of patient care;

xi. attend IDT meetings;

xii. document evidence of active participation in the hospice program (i.e. performance of above responsibilities and time spent upon performance of those responsibilities); and

xiii. shall be readily available to the hospice staff.

c. Continuous Medical Education (CME).The medical director shall annually complete 2 hours of CME related to end of life care. Documentation of this CME shall be maintained in the medical director's personnel record.

2. An advanced practice registered nurse (APRN), legally authorized to practice advanced practice nursing in the State, shall not function as the medical director of the hospice but may be the licensed medical practitioner of individual hospice patients and meet the requirements of §8217.I.1.b.i-xii.

a. The APRN shall not be the referring practitioner and shall not be the signer of certification of terminal illness (CTI).

b. - i. Repealed.

J. Social Worker

1. Qualifications. The social worker shall be an individual who holds a current, valid license as a social worker (LMSW) issued by the Louisiana State Board of Social Work Examiners (LSBSWE), has master's degree from a school of social work accredited by the Council on Social Work Education, and who meets the following:

a. has at least one year of health care experience;

b. has documented clinical experience appropriate to the counseling and casework needs of the terminally ill;

c. shall be an employee of the hospice; and

d. when the social worker is employed by one or more agencies, he/she shall inform all employers and cooperate and coordinate duties to assure the highest performance of quality when providing services to the patient.

2. Responsibilities. The social worker shall assist the licensed medical practitioner and other IDT members in understanding significant social and emotional factors related to the patient's health status and shall include, but not be limited to:

a. assessment of the psychological, social and emotional factors having an impact on the patient's health status;

b. - c. ...

d. coordination with other IDT members and participate in IDT conferences;

e. - f. ...

g. acts as a consultant to other members of the IDT; and

h. ...

3. Continuing Education. The social worker shall annually obtain two hours of continuing education hours related to end of life care including but not limited to the following topics:

a. Medicare/Medicaid regulations;

b. psychosocial issues;

c. community resources/services;

d. death and dying;

e. family/patient dynamics;

f. ethics; and

g. advanced directives and LaPOST.

K. ...

1. Qualifications. A occupational therapist shall be licensed by the State of Louisiana and registered by the American Occupational Therapy Association.

2. Responsibilities. The occupational therapist shall assist the licensed medical practitioner in evaluating the patient's level of functioning by applying diagnostic and prognostic procedures including, but not limited to, the following:

a. provide occupational therapy in accordance with the licensed medical practitioner's orders and the POC;

b. ...

c. observe, record, and report to the licensed medical practitioner and/or interdisciplinary team the patient's reaction to treatment and any changes in the patient's condition;

d. instruct and inform other health team personnel including, when appropriate, hospice aides/homemakers and family members in certain phases of occupational therapy in which they may work with the patient;

e. ...

f. participate in IDT conference as needed with hospice staff; and

g. prepare written discharge summary when applicable, with a copy retained in patient's clinical record and a copy forwarded to the attending licensed medical practitioner.

3. - 3.a. ...

b. The occupational therapist and the occupational therapy assistant shall schedule joint visits at least once every two weeks or every four to six treatment sessions.

c. The occupational therapist shall review and countersign all progress notes written by the licensed and certified occupational therapy assistant.

d. ...

e. The supervising occupational therapist is responsible for:

i. ...

ii. establishing the type, degree and frequency of supervision required in the hospice care setting.

L. ...

1. Qualifications. The occupational therapist assistant shall be licensed by the Louisiana Board of Medical Examiners to assist in the practice of occupational therapy under the supervision of a licensed registered occupational therapist and have at least two years' experience as a licensed OTA before starting their hospice caseload.

M. Physical Therapist (PT). The physical therapist, when provided, shall be available to perform in a manner consistent with accepted standards of practice.

1. Qualifications. The physical therapist shall be currently licensed by the Louisiana State Board of Physical Therapy Examiners.

a. - c. Repealed.

2. Responsibilities. The physical therapist shall evaluate the patient's functional status and physical therapy needs in a manner consistent with standards of practice to include, but is not limited to, the following:

a. ...

b. provide services within the scope of practice as defined by state law governing the practice of physical therapy, in accordance with the POC, and in coordination with the other members of the IDT;

c. observe, and report to the licensed medical practitioner and the IDT, the patient's reaction to treatment and any changes in the patient's condition;

d. instruct and inform participating members of the IDT, the patient, family/care givers, regarding the POC, functional limitations and progress toward goals;

e. ...

f. when physical therapy services are discontinued, prepare written discharge summary, with a copy retained in the patient's clinical record and a copy forwarded to the attending licensed medical practitioner;

g. participate in IDT conference as needed with hospice staff.

M.3. - N. ...

1. Qualifications. A physical therapy assistant shall be licensed by the Physical Therapy Board of Louisiana and supervised by a physical therapist.

2. Responsibilities. The physical therapy assistant shall:

a. - b. ...

c. participates in IDT conference as needed with hospice staff.

O. Registered Nurse (RN). The hospice shall designate a registered nurse to coordinate the implementation of the POC for each patient.

1. Qualifications. A licensed registered nurse shall be currently licensed to practice in the state of Louisiana with no restrictions:

a. have at least two years of full-time experience as a registered nurse. However, two years of full-time clinical experience in hospice care as a licensed practical nurse may be substituted for the required two years of experience as a registered nurse; and

b. be an employee of the hospice. If the registered nurse is employed by more than one agency, he/she must inform all employers and coordinate duties to assure quality service provision.

c. Repealed.

2. Responsibilities. The registered nurse shall identify the patient/family's physical, psychosocial, and environmental needs and reassess as needed but no less than every 14 days:

a. - b. ...

c. collaborate with the patient/family, attending licensed medical practitioner and other members of the IDT in providing patient and family care;

d. - f. ...

g. if a home hospice/homemaker is assigned to a patient by the RN, in accordance with the POC, specific written instructions for patient care are to be prepared by the RN. All personal care services are to be outlined for the patient, in writing, by the RN in charge of that patient;

h. supervise and evaluate the hospice aide/homemaker's ability to perform assigned duties, to relate to the patient and to work effectively as a member of the health care team;

i. perform supervisory visits to the patient's residence at least every 14 days to assess relationships and determine whether goals are being met. A supervisory visit with the aide present shall be made at least annually. Documentation of the aide present supervisory visit shall be placed in the hospice aide's personnel record;

j. document supervision, to include the aide/homemaker-patient relationships, services provided and instructions and comments given as well as other requirements of the clinical note;

k. annual performance review for each aide/homemaker documented in the individual's personnel record; and

l. annually conduct an on-site LPN supervisory visit with the LPN present. Documentation of such visit shall be kept in the LPN's personnel record.

3. Continuing Education. The registered nurse shall annually obtain at least two hours of continuing education hours related to end of life care.

P. ...

1. Qualifications. A speech pathologist shall:

a. - b. ...

2. Responsibilities. The speech pathologist shall assist the attending licensed medical practitioner in evaluation of the patient to determine the type of speech or language disorder and the appropriate corrective therapy in a manner consistent with standards of practice to include, but is not limited to, the following:

a. ...

b. observe, record and report to the attending licensed medical practitioner and the IDT the patient's reaction to treatment and any changes in the patient's condition;

c. ...

d. communicate with the registered nurse, director of nurses, and/or the IDT the need for a continuation of speech pathology services for the patient;

e. participate in IDT conferences;

f. ...

g. prepare written discharge summary as indicated, with a copy retained in patient's clinical record and a copy forwarded to the attending licensed medical practitioner.

Q. Volunteers. Volunteers play a vital role in enhancing the quality of care delivered to the patient/family by encouraging community participation in the overall hospice program. Volunteers that provide patient care and support services according to their experience and training shall do so in compliance with agency policies, and under the supervision of a designated hospice employee.

1. Qualifications. A mature, non-judgmental, caring individual supportive of the hospice concept of care, willing to serve others, and appropriately oriented and trained. Volunteers who are qualified to provide professional services shall meet all standards associated with their specialty area.

2. Responsibilities. The volunteer shall:

a. ...

b. provide input into the plan of care and interdisciplinary team meetings, as appropriate;

c. - e. ...

3. Training. The volunteers shall receive appropriate documented training which shall include at a minimum:

a. - n. ...

o. the role of the IDT; and

p. additional supplemental training for volunteers working in specialized programs (e.g. nursing facilities).

4. The hospice shall offer relevant in-service training on a quarterly basis and maintain documentation of such.

5. Pursuant to state law, requirements for minimum volunteer services shall be at least 5 percent of the total hours of service of the hospice agency.

R. Volunteer Coordinator. The hospice shall designate an employee of the agency who is skilled in organization and documentation as a volunteer coordinator.

1. Responsibilities. The volunteer coordinator shall be responsible for:

a. overseeing the volunteer program;

b. recruitment, retention, and education of volunteers;

c. coordinating the services of volunteers with the patient and/or family; and

d. attending IDT meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2262 (December 1998), LR 25:2409 (December 1999), LR 29:2801 (December 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 44:.

**Subchapter C. Patient Care Services**

**§8219. Patient Care Standard**

A. Patient Certification. To be eligible for hospice care, an individual, or his/her representative, shall sign an election statement with a licensed hospice; the individual shall have a certification of terminal illness and shall have a plan of care (POC) which is established before services are provided.

B. Admission Criteria. The hospice shall have written policies to be followed in making decisions regarding acceptance of patients for care. Decisions are based upon medical, physical and psychosocial information provided by the patient's attending licensed medical practitioner, the patient/family and the interdisciplinary team. The admission criteria shall include:

1. ...

2. certification of terminal illness (CTI) signed by the attending licensed medical practitioner and the medical director of the agency;

NOTE: The CTI shall not be signed by an APRN

B.3. - C. ...

1. An assessment visit shall be made by a registered nurse, who will assess the patient's needs with emphasis on pain and symptom control. This assessment shall occur within 48 hours of referral for admission, unless otherwise ordered by physician or unless a request for delay is made by patient/family.

2. - 2.c. ...

d. patient release of information;

e. patient's signed designation of attending licensed medical practitioner;

i. - iv. Repealed.

f. orientation of patient/caregiver, which includes:

i. advanced directives and LaPOST;

ii. agency services;

iii. patient's rights; and

iv. agency contact procedures; and

g. for an individual who is terminally ill, certification of terminal illness signed by the medical director or the physician member of the IDT and the individual's attending physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2268

(December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8221. Plan of Care (POC)**

A. Prior to providing care, a written plan of care is developed for each patient/family by the attending physician, the medical director, physician designee or the APRN and the IDT. The care provided to an individual shall be in accordance with the POC.

1. ...

2. The IDT member who assesses the patient's needs shall meet or call at least one other IDT member before writing the IPOC. At least one of the persons involved in developing the IPOC shall be a registered nurse or physician. Within two days of the assessment, the other members of the IDT shall review the IPOC and provide their input. This input may be by telephone. The IPOC shall be signed by the attending licensed medical practitioner and an appropriate member of the IDT.

3. At a minimum the POC shall include the following:

3.a. - 4.…

5. The hospice shall designate a registered nurse to coordinate the implementation of the POC for each patient.

B. Review and Update of the Plan of Care. The plan of care is reviewed and updated at intervals specified in the POC, when the patient's health status changes, and a minimum of every 14 days for home care and every 7 days for general inpatient/continuous care, collaboratively with the IDT and the attending licensed medical practitioner.

Note: In the event that the day of the regularly scheduled IDT meeting falls on a holiday, 15 days is acceptable.

1. The hospice agency shall have policy and procedures for the following:

a. the attending licensed medical practitioner's participation in the development, revision, and approval of the POC is documented. This is evidenced by change in patient orders and documented communication between hospice staff and the attending licensed medical practitioner;

b. orders shall be signed and dated in a timely manner, not to exceed 14 days, unless the hospice has documentation that verifies attempts to get orders signed (in this situation up to 30 days will be allowed).

2. The agency shall have documentation that the patient's health status and POC is reviewed and the POC updated, even when the patient's health status does not change.

C. Coordination and Continuity of Care. The hospice shall adhere to the following additional principles and responsibilities:

1. - 10. ...

11. maintenance of appropriately qualified IDT health care professionals and volunteers to meet patients need;

12. maintenance and documentation of a volunteer staff to provide administrative or direct patient care. The hospice shall document a continuing level of volunteer activity;

13. coordination of the IDT, as well as of volunteers, by a qualified health care professional, to assure continuous assessment, continuity of care and implementation of the POC;

14. - 15. ...

16. each member of the IDT accepts a fiduciary relationship with the patient/family, maintaining professional boundaries and an understanding that it is the responsibility of the IDT to maintain appropriate agency/patient/family relationships;

17. has a written agency policy to follow at the time of death of the patient; and

18. has written agency policies and procedures for emergency response based on an all hazards risk assessment, inclusive of training for employees, patients and their caregivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2268 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8223. Pharmaceutical Services**

A. - A.2. ...

3. Drugs and treatments are administered by agency staff only as ordered by the licensed medical practitioner.

B. - C. ...

D. Hospice provides the IDT and the patient/family with coordinated information and instructions about individual drug profiles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2269 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8225. Pathology and Laboratory Services**

A. Hospice provides or has access to pathology and laboratory services which comply with CLIA guidelines and meet patient's needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2269 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8227. Radiology Services**

A. Radiology services provided by hospice either directly; or under arrangements that shall comply with applicable federal and state laws, rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2269 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8229. Discharge/Revocation/Transfer**

A. ...

B. Discharge. Patient shall be discharged only in the following circumstance:

1. ...

2. patient relocates from the hospice's defined geographical service area;

3. if the safety of the patient or of the hospice staff is compromised. The hospice shall make every effort to resolve these problems satisfactorily before discharge. All efforts by the hospice to resolve the problem shall be documented in detail in the patient's clinical record; and

4. if the patient enters a non-contracted nursing facility or hospital and all options have been exhausted (a contract is not attainable or the patient chooses not to transfer to a facility with which the hospice has a contract, the hospice shall then discharge the patient. The hospice shall notify the payor source to document that all options have been pursued and that the hospice is not "dumping" the patient;

5. the hospice shall clearly document why the hospice found it necessary to discharge the patient.

C. Revocation. Occurs when the patient or representative makes a decision to discontinue receiving hospices services:

1. - 2. ...

3. if a patient or representative chooses to revoke from hospice care, the patient shall sign a statement that he or she is aware of the revocation and stating why revocation is chosen.

D. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2269 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8231. Patient Rights and Responsibilities**

A. - A.7. ...

8. confidentiality with regard to provision of services and all patient records, including information concerning patient/family health status, as well as social, and/or financial circumstances. The patient information and/or records may be released only with patient/family's written consent, and/or as required by law;

A.9. - B. ...

C. The patient has the responsibility to the best of their ability to:

C.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2270 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8233. Clinical Records**

A. In accordance with accepted principles of practice the hospice shall establish and maintain a clinical record (either hard copy or electronic) for every individual receiving care and services. The record shall be complete, promptly and accurately documented, legible, readily accessible and systematically organized to facilitate retrieval. The clinical record shall contain all pertinent past and current medical, nursing, social, and other therapeutic information, including the current POC under which services are being delivered.

B. Hospice records shall be maintained in a distinct location and not mingled with records of other types of health care related agencies.

C. - E. ...

F. Records shall be maintained for six years from the date of discharge, unless there is an audit or litigation affecting the records. Records for individuals under the age of majority shall be kept in accordance with current state and federal law.

G. ...

H. The clinical record shall contain a comprehensive compilation of information including, but not limited to, the following:

1. - 2. ...

3. written orders for admission and changes to the POC;

H.4. - J. ...

K. The agency may produce, maintain and store records either in paper documentation form or in electronic form. Records stored in electronic form shall be password protected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2270 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**Subchapter D. Administration**

**§8235. Agency Operations**

A. ...

1. Staff shall be able to distinguish and describe the scope and delineation of all activities being provided by the hospice.

2. ...

3. The hospice shall have a distinct telephone number. If the telephone number is shared with other health care related agencies, the telephone operator(s) shall demonstrate knowledge and ability to distinguish and direct calls to the appropriate persons. If an answering service is used after normal hours, there shall be evidence of distinct hospice staff and the answering service should be able to direct calls to the appropriate persons for each service.

4. The hospice shall not share office space with a non-health care related entity. When office space is shared with another health care related entity the hospice agency shall operate separate and apart.

B. ...

1. The hospice shall be required to have regular posted (in a prominent and easily accessible manner) business days and hours and be fully operational at least 8 hours a day, 5 days a week between 7 a.m. and 6 p.m. Hospice services are available 24 hours per day, 7 days a week, which include, at a minimum:

a. professional registered nurse services;

1.b. - 2. ...

a. The on-call RN shall triage calls and may delegate to another employee as appropriate.

C. Policies and procedures:

1. shall be written, current, and annually reviewed by appropriate personnel;

2. shall contain policies and procedures specific to agency addressing personnel standards and qualifications, agency operations, patient care standards, problem and complaint resolution, purpose and goals of operation, the hospice's defined service area, as well as regulatory and compliance issues;

3. shall clarify the agency's prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media that includes, at a minimum, confidentiality of patient information, preservation of patient

dignity and respect, protection of patient privacy and personal and property rights;

4. shall meet or exceed requirements of the minimum standards and all applicable federal, state, and local laws, including but not limited to criminal histories conducted by the Louisiana State Police, or its designee, on all non-licensed persons providing nursing care, health-related services, or supportive services to any patient; and

5. shall include a process for checking the Direct Service Worker Registry and the Louisiana Certified Nurse Aide Registry upon hiring an employee, and every six months thereafter, to ensure that non-licensed direct care staff do not have a finding placed against him/her of abuse, neglect, or misappropriation of funds of an individual. If there is such a finding on the DSW and/or CNA registry, the applicant shall not be employed nor does a current employee have continued employment with the hospice agency.

D. ...

1. Hospice's responsibility to the community:

a. shall not accept orders to assess or admit from any source other than licensed physician or authorized physician representative (e.g. hospital discharge planner). Although the hospice may provide care to relatives of employees, the order to admit to the hospice shall be initiated by the primary attending physician;

b. ...

c. shall not participate in door to door solicitation;

d. - e. ...

f. shall have policy and procedures and a written plan for emergency operations in case of disaster including that at any time the hospice has an interruption in services or a change in the licensed location due to an emergency situation, the hospice shall notify the HSS no later than the next stated business day;

g. provide all services needed in a timely manner, at least within 24 hours, unless orders by the licensed medical practitioner indicate otherwise. However, admission timeframes shall be followed as indicated in the admission procedures subsection;

h. ...

i. shall have policy and procedures for post-mortem care in compliance with all applicable federal, state, and local laws;

j. - k. ...

2. Hospice's responsibility to the patient shall include, but is not limited to, the following:

a. - f. ...

g. provide information on advanced directives and LaPost in compliance with all applicable federal, state, and local laws;

h. - o.v. ...

vi. patients shall be permitted to receive visitors at any hour, including small children.

3. - 3.b.iii. ...

iv. policies and procedures for storing, accessing, and distributing controlled drugs, supplies and equipment;

3.b.v. - c. ...

d. maintain insurance and worker's compensation at all times;

e. - f. ...

g. provide adequate information, in-service training, supplies, and other support for all employees to perform to the best of their ability;

h. provide in-service training to promote effective, quality hospice care; and

i. have training on the prohibited use of social media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2271 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8237. Contract Services**

A. ...

B. The hospice shall not at any time use contract employees as administrator/alternate or for the provision of core services, except that physician or physician designee services may be provided through contract.

C. ...

D. Whenever services are provided by an outside agency or individual, a legally binding written agreement shall be effected. The legally binding written agreement shall include at least the following items:

1. - 3. ...

4. the delineation of the role(s) of the hospice and the contractor in the admission process, patient/family assessment, and the IDT conferences;

D.5. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2272 (December 1998), LR 29:2801 (December 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8239. Quality Assurance/Performance Improvement**

A. ...

B. The hospice shall have written plans, policies and procedures addressing quality assurance and performance improvement.

C. Hospice shall monitor and evaluate its resource allocation regularly to identify and resolve problems with the utilization of its services, facilities and personnel.

D. Hospice shall follow a written plan for continually assessing and improving all aspects of operations which include:

D.1. - E. ...

F. The governing body and administration shall strive to create a work environment where problems can be openly addressed and service improvement ideas encouraged.

G. Quality assessment and improvement activities are based on the systematic collection, review, and evaluation of data which, at a minimum, includes:

1. - 2. ...

3. reports from staff, volunteers and patients about services;

G.4. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2273 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8241. Branch Offices**

A. No branch office may be opened without written approval from LDH.

B. ...

C. Each branch shall serve the same or part of the geographic area approved for the parent.

D. Each branch office shall have a registered nurse immediately available to be on site, or on site in the branch office at all times during stated operating hours.

E. All services provided by the parent agency shall be available in the branch.

F. - H. ...

I. Approval for branch offices will be issued, in writing, by LDH for one year and will be renewed at time of annual renewal if the branch office:

1. ...

2. serves only patients who are geographically nearer to the branch than to the parent office;

3. offers exact same services as the parent agency; and

4. if the parent office meets requirements for full licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2273 (December 1998), LR 25:2409 (December 1999), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8243. Cessation of Business**

A. Except as provided in §8245 and §8246 of these licensing regulations, a license shall be immediately null and void if a hospice ceases to operate.

1. - 2. Repealed.

B. A cessation of business is deemed to be effective the date on which the hospice stopped offering or providing services to the community.

1. - 2. Repealed.

C. Upon the cessation of business, the hospice 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 hospice. The hospice 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 hospice shall:

1. give 30 days' advance written notice to:

a. the HSS;

b. each patient's attending licensed medical practitioner; and

c. each patient or patient's legal representative, if applicable; and

2. provide for an orderly discharge and transition of all of the patients in the hospice.

F. In addition to the advance notice of voluntary closure, the hospice shall submit a written plan for the disposition of all patient medical records for approval by the department. The plan shall include:

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 hospice's patients' medical records;

3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the patient 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 hospice, at least 15 days prior to the effective date of closure.

G. If a hospice fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a hospice for a period of two years.

H. Once the hospice has ceased doing business, the hospice shall not provide services until the hospice has obtained facility need review approval and applied for initial licensure in accordance with requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2274 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8245. Inactivation of Licensure due to a Declared Disaster or Emergency**

A. A hospice agency licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the licensed agency shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the hospice agency has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the hospice agency intends to resume operation as a hospice in the same service area;

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

d. includes an attestation that all patients have been properly discharged or transferred to another agency or facility; and

e. provides a list of patients and where that patient is discharged or transferred to;

2. the agency resumes operating as a hospice in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 et seq., or R.S. 29:766 et seq.;

3. the hospice continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the hospice continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a hospice license, the department shall issue a notice of inactivation of license to the hospice.

C. Upon completion of repairs, renovations, rebuilding or replacement, a hospice agency which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The hospice shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The agency resumes operating as a hospice in the same service area within one year.

3. - 6. Repealed.

D. Upon receiving a completed written request to reinstate a hospice license, the department shall conduct a licensing survey. If the hospice meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the hospice license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the hospice agency at the time of the request to inactivate the license.

E. No change of ownership of the hospice agency shall occur until such agency has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as a hospice agency.

F. The provisions of this Section shall not apply to a hospice agency which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the hospice license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2274 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8246. Inactivation of Licensure due to a Non-Declared Disaster or Emergency**

A. A hospice in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the hospice shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the hospice has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the hospice intends to resume operation as a hospice agency in the same service area;

c. the hospice attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the hospice's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility;

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

2. the hospice continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the hospice continues to submit required documentation and information to the department, including but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate a hospice license, the department shall issue a notice of inactivation of license to the hospice.

C. Upon receipt of the department's approval of request to inactivate the agency's license, the hospice shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the Office of the State Fire Marshal (OSFM) and the Office of Public Health (OPH) as required.

D. The hospice shall resume operating as a hospice in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

EXCEPTION: If the hospice requires an extension of this timeframe due to circumstances beyond the agency's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the agency's active efforts to complete construction or repairs and the reasons for request for extension of the agency's inactive license. Any approval for extension is at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a hospice which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the hospice shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate a hospice license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the agency has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership of the hospice shall occur until such hospice has completed repairs, renovations,

rebuilding or replacement construction and has resumed operations as a hospice facility.

H. The provisions of this Subsection shall not apply to a hospice which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the hospice license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:

**Subchapter E. Hospice Inpatient Facility**

**§8247. Requirements for Licensure of Inpatient Hospice**

A. Hospice inpatient services may be provided directly by the hospice or through arrangements made by the hospice. An agency is prohibited from providing hospice inpatient services only. A hospice that elects to provide hospice inpatient services directly is required to be licensed as a hospice agency and sublicensed as a hospice inpatient facility. Separate applications and fees are required. The application process to establish a hospice inpatient facility may be completed simultaneously with an application to provide hospice services.

B. An application packet shall be obtained from LDH.

1. A completed application packet for a hospice inpatient facility shall be submitted to and approved by LDH prior to an agency providing hospice services.

2. The application submitted shall include the current licensing fee plus any bed fees. All fees shall be in the form of a company check, certified check or money order made payable to LDH. All fees submitted are non-refundable. All state-owned hospice facilities are exempt from fees.

3. ...

4. Each initial applicant or an existing hospice inpatient facility requesting a change of address shall have approval from the following offices prior to an on-site survey by this department.

a. Office of Public Health—Local Health Unit. All hospice inpatient facilities shall comply with the rules, LAC Title 51, *Public Health—Sanitary Code* and enforcement policies as promulgated by OPH. It shall be the primary responsibility of OPH to determine if applicants are complying with those requirements. No initial license shall be issued without the applicant furnishing a certificate from OPH that such an applicant is complying with their provisions. A provisional license may be issued to the applicant if OPH issues the applicant a conditional certificate.

b. Office of the State Fire Marshal. All hospice inpatient facilities shall comply with the rules, established fire protection standards and enforcement policies as promulgated by OSFM. It shall be the primary responsibility of OSFM to determine if applicants are complying with those requirements. No license shall be issued or renewed without the applicant furnishing a certificate from OSFM that such applicant is complying with their provisions. A provisional license may be issued to the applicant if OSFM issues the applicant a conditional certificate.

C. New constructions shall be reviewed by OSFM for compliance with the applicable hospice licensing rules.

1. All new construction, other than minor alterations for a hospice inpatient facility, shall be done in accordance with the specific requirements of OSFM and OPH regulations covering new construction, including submission of preliminary plans and the final work drawings and specifications shall also be submitted prior to any change in facility type.

2. No new hospice inpatient facility shall be constructed, nor shall major alterations be made to existing hospice inpatient facilities, or change in facility type be made without the prior written approval of, and unless in accordance with plans and specifications approved in advance by the Department of Health and the Office of State Fire Marshal. The review and approval of plans and specifications shall be made in accordance with the requirements of OSFM to include:

a. copies of the approval letters of the architectural and the licensing facility plans from OSFM and any other office/entity designated by the department to review and approve the facility's architectural and licensing plan review;

b. a copy of the on-site inspection report with approval for occupancy by OSFM, if applicable; and

c. a copy of the on-site health inspection report with approval for occupancy from OPH. Before any new hospice inpatient facility is licensed or before any alteration or expansion of a licensed hospice inpatient facility can be approved, the applicant shall furnish one complete set of plans and specifications to OSFM, with fees and other information as required. Plans and specifications for new construction other than minor alterations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer.

3. Notice of satisfactory review from OPH and OSFM for *Life Safety Code* (LSC) approval and licensing plan review 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.

4. Repealed.

D. An agency seeking to renew its license shall:

1. request a renewal application packet from LDH if one is not received at least 45 days prior to the license expiration date;

D.2. -E. ...

F. An agency shall notify LDH, in writing, prior to a change in name of the agency, address change, or a change in the number of beds.

1. ...

2. The new facility location shall meet the same licensing requirements as those required for an initial survey including approval of building plans by OSFM and OPH.

G. - H. ...

I. Equipment and furnishings in an inpatient facility shall provide for the health care needs of the patient while providing a home-like atmosphere.

J. - K. ...

L. The hospice inpatient facility shall ensure the following:

1. ...

2. the facility has an acceptable, written all hazards risk assessment and emergency preparedness plan. The plan shall include:

a. - c. ...

i. in the event of an evacuation, the facility shall have a method to release patient information consistent with the HIPAA Privacy Rule;

d. fire and/or other emergency drills, in accordance with the LSC;

e. procedures covering persons in the facility and in the community in cases of all hazards (i.e., hurricanes, tornadoes, floods); and

f. arrangements with community resources in the event of a disaster;

3. the facility shall design and equip areas for the comfort and privacy of each patient and family members. The facility shall have the following:

a. - c. ...

d. decor which is homelike in design and function; and

e. patients shall be permitted to receive visitors at any hour, including small children;

4. patient rooms are designed and equipped for adequate nursing care and the comfort and privacy of patients. Each patient's room shall:

a. be equipped with toilet and bathing facilities;

b. - c. ...

d. contain room decor that is homelike and non-institutional in design and function. Room furnishings for each patient shall include a bed with side rails, a bedside stand, an over-the-bed table, an individual reading light easily accessible to each patient and a comfortable chair. The patient shall be permitted to bring personal items of furniture or furnishings into their rooms unless medically inappropriate;

4.e. - 6.c.iii. ...

7. the hospice inpatient facility shall make provisions for isolating patients with infectious diseases. The hospice should institute the most current recommendations of The Centers for Disease Control and Prevention (CDC) relative to the specific infection(s) and communicable disease(s). The hospice provisions for isolating patients with infectious diseases shall include:

a. - b. ...

c. measures for prevention of infections, especially those associated with immunosuppressed patients and other factors which compromise a patient's resistance to infection;

d. - e. ...

f. isolation procedures and requirements for infected or immunosuppressed patients;

g. - m. ...

n. employee health policies regarding infectious diseases, and when infected or ill employees shall not render direct patient care;

8. ...

9. the hospice inpatient facility shall provide the following:

a. ...

b. hand washing facilities located convenient to each nurses' station and medication distribution station;

c. - j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2274 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8249. Governing Body for Inpatient Hospice**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2276 (December 1998), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8251. Medical Director**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2277 (December 1998), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8253. Nursing Services**

A. There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction of the director of nursing and in accordance with the requirements of §8217.E.1-2.e.ix.

B. The inpatient facility shall have staff on the premises on a 24 hour a day, 7 day a week basis when there are patients in the facility. The services provided shall be in accordance with the patient's plan of care. Each shift shall include two direct patient care staff, one of which shall be a registered nurse who provides direct patient care. The nurse to patient ratio shall be at least one nurse to every eight patients. In addition there shall be sufficient number of direct patient care staff on duty to meet the patient care needs. When there are no patients in the hospice inpatient facility, the hospice shall have a registered nurse on-call to be immediately available to the hospice inpatient facility.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2277 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8255. Nutritional Services**

A. - A.1.c. ...

2. The hospice inpatient facility shall have a dietary manager who is responsible for:

a. planning menus that meet the nutritional needs of each patient, following the orders of the patient's licensed medical practitioner and, to the extent medically possible, the recommended dietary allowances of the Food and Nutrition Board of the National Academy of Sciences. There shall be a current therapeutic diet manual approved by the dietician and medical staff, and readily available to all medical, nursing, and food service personnel, which shall be the guide used for ordering and serving diets.

b. ...

3. A dietary manager shall meet one of the following:

a. - b. ...

c. has training and experience in food service supervision and management in the military or other service equivalent in content to a dietetic technician or dietetic assistant training program by correspondence or classroom, approved by the American Dietetic Association.

A.4. - B.1.b. ...

c. All food shall be stored, prepared, distributed and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink at or below 40 degrees Fahrenheit, except when being prepared and served. Refrigerator temperatures shall be maintained at 40 degrees Fahrenheit or below; freezers at 0 degrees Fahrenheit or below.

d. Hot foods shall leave the kitchen or steam table at or above 140 degrees Fahrenheit. In-room delivery temperatures shall be maintained at 120 degrees Fahrenheit, or above for hot foods and 50 degrees Fahrenheit or below for cold items. Food shall be covered during transportation and in a manner that protects it from contamination while maintaining required temperatures.

e. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized and stored. This includes maintaining a water temperature in dish washing machines at 140 degrees Fahrenheit during the wash cycle (or according to the manufacturer's specifications or instructions) and 180 degrees Fahrenheit for the final rinse. Low temperature machines shall maintain a water temperature of 120 degrees Fahrenheit with 50 ppm (parts per million) of hypochlorite (household bleach) on dish surfaces. For manual washing in a 3-compartment sink, a wash water temperature of 75 degrees Fahrenheit with 50 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine; or a hot water immersion at 170 degrees Fahrenheit for at least 30 seconds shall be maintained. An approved lavatory shall be convenient and equipped with hot and cold water tempered by means of a mixing valve or combination faucet for dietary services staff use. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least fifteen seconds without the need to reactivate the faucet. Effective with the promulgation of these requirements, an additional lavatory shall be provided in the dishwasher area in newly constructed hospices or in existing hospices undergoing major dietary alterations.

f. - g. ...

h. Toxic items such as insecticides, detergents and polishes shall be properly stored, labeled and used in accordance with manufacturer's guidelines.

i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2277 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**§8257. Pharmaceutical Services of Inpatient Hospice**

A. ...

B. The hospice shall ensure that pharmaceutical services are provided by appropriate methods and procedures for the storage, dispensing and administering of drugs and biologicals. Whether drugs and biologicals are obtained from community or institutional pharmacists or stocked by the facility, the hospice facility is responsible for ensuring that pharmaceutical services are provided in accordance with accepted professional principles and appropriate federal, state, and local laws.

C. ...

D. Licensed Pharmacist. The hospice shall employ a licensed pharmacist or have a formal agreement with a licensed pharmacist to advise the hospice on ordering, storage, administration, disposal, and record keeping of drugs and biologicals.

E. Orders for Medications. A licensed medical practitioner's order shall be obtained for all medication administered to the patient.

1. If the medication order is verbal, the licensed medical practitioner shall give it only to a licensed nurse, pharmacist, or another physician; and the individual receiving the order shall record and sign it immediately.

2. All orders (to include telephone and/or verbal) are to be signed by the prescribing licensed medical practitioner in a timely manner, not to exceed 30 days.

F. Administering Medications. Patients shall be accurately identified prior to administration of a medication.

1. Medications are administered only by a physician, a licensed nurse; or the patient, if his/her attending licensed medical practitioner has approved self-administration.

2. Orders shall be checked at least daily to assure that changes are noted.

3. ...

4. Each patient has an individual medication administration record (MAR) on which the dose of each medication administered shall be properly recorded by the person administering the medication to include:

a. - e. ...

f. medications brought to the Hospice by the patient or other individuals for use by that patient shall be accurately identified as to name and strength, properly labeled, stored in accordance with facility policy and shall be administered to the patient only upon the written orders of the attending licensed medical practitioner;

g. medications shall not be retained at the patient's bedside nor shall self-administration be permitted except when ordered by the licensed medical practitioner. These medications shall be appropriately labeled and safety precautions taken to prevent unauthorized usage;

h. medication errors and drug reactions are immediately reported to the director of nurses, pharmacist and the licensed medical practitioner, and an entry made in the patients' medical record and on an incident report in accordance with facility policy. This procedure shall include recording and reporting to the licensed medical practitioner the failure to administer a medication, for any other reason than refusal of a patient to take a medication. The refusal of a patient to take a medication should be reported during IDT conferences. If there is adverse consequence resulting from the refusal, this is to be immediately reported to the director of nurses, pharmacist and licensed medical practitioner, and an entry made in the patients' medical record and on an incident report in accordance with facility policy;

i. the nurse's station or medicine room for all hospice inpatient facilities shall have readily available items

necessary for the proper administration and accounting of medications;

j. each hospice shall have available current reference materials that provide information on the use of medications, side effects and adverse reactions to drugs and the interactions between drugs.

G. Conformance with Medication Orders. Each hospice inpatient facility shall have a procedure for at least quarterly monitoring of medication administration. This monitoring may be accomplished by a registered nurse or a pharmacist, to assure accurate administration and recording of all medications.

1. ...

2. Medications shall be released upon discharge or transfer only upon written authorization of the attending licensed medical practitioner.

3. An entry of such release shall be entered in the medical record to include medications released, amounts, who received the medications and signature of the person carrying out the release.

H. ...

1. In accordance with state and federal laws, all drugs and biologicals are stored in locked compartments under proper temperature controls and only authorized personnel have access to the keys. Separately locked compartments are provided for storage of controlled drugs listed in schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other drugs subject to abuse, except under single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

2. Controlled drugs no longer needed by the patient are disposed of in compliance with state requirements.

3. There shall be a secure drug or medicine room/drug preparation area at each nurses' station of sufficient size for the orderly storage of medications, both liquid and solid dosage forms and for the preparation of medications for patient administration within the unit. In the event that a drug cart is used for storage and administration of medication, the room shall be of sufficient size to accommodate placement of the cart.

4. - 5. ...

6. Sufficient artificial lighting shall be provided and the temperature of the medicine storage area shall not be lower than 48 degrees Fahrenheit or above 85 degrees Fahrenheit and the room shall be provided with adequate ventilation.

7. - 10.a. ...

b. External use only drugs shall be plainly labeled and stored separate from drugs and biologicals. No poisonous substance shall be kept in the kitchen, dining area, or any public spaces or rooms. This section shall not prohibit storage within the drug or medicine room of approved poisonous substances intended for legitimate medicinal use, provided that such substances are properly labeled in accordance with applicable federal and state law.

11. - 12.c. ...

d. There shall be records available to show amount received, name of patient and amount used, prescribing licensed medical practitioner, time of administration, name of individual removing and using the medication, and the balance on hand.

e. - f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2278 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the safe and effective operation of hospice facilities.

**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 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, January 25, 2018 at 9:30 a.m. in Room 173, 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.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Hospice Licensing Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that $10,584 (SGF) will be expended in FY 17-18 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 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 amends the provisions governing hospice licensing standards in order to clarify and update these provisions to be consistent with the standard language used in other licensing Rules and with standard processes. It is anticipated that the implementation of this proposed rule will have no economic costs, but will be beneficial to hospice providers for FY 17-18, FY 18-19 and FY 19-20 by clarifying the provisions to make certain they are clear and concise which will allow hospice providers to ensure compliance with the regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1712#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health
### Bureau of Health Services Financing

Inpatient Hospital Services
Pre-Admission Certification
(LAC 50:V.301)

The Department of Health, Bureau of Health Services Financing proposes to repeal LAC 50:V.301 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.

Due to the implementation of managed care through the Healthy Louisiana program, pre-admission certification, concurrent review, and length of stay assignment are no longer required for admission of Medicaid recipients to non-state and state operated acute care general hospitals. The Department of Health, Bureau of Health Services Financing hereby amends the provisions governing inpatient hospital services in order to repeal provisions requiring pre-admission certification, concurrent review and length of stay assignment.

**Title 50**
**PUBLIC HEALTH—MEDICAL ASSISTANCE**
**Part V. Hospital Services**
**Subpart 1. Inpatient Hospitals**
**Chapter 3. Pre-Admission Certification**
**§301. General Provisions**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:66 (January 2010), amended LR 38:824 (March 2012), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

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 cost 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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, January 25, 2018 at 9:30 a.m. in Room 173, 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.

Rebekah E. Gee MD, MPH
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Inpatient Hospital Services Pre-Admission Certification

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 17-18. It is anticipated that $324 ($162 SGF and $162 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that $162 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing inpatient hospital services in order to remove obsolete Legacy Medicaid language to align the Rule provisions with current Medicaid program operations and practices relative to pre-certification, concurrent review and length of stay assignment for admission of Medicaid recipients to inpatient acute care hospitals. Since the implementation of Medicaid managed care, recipients have received hospital services through managed care organizations who authorize the delivery of health care services, including inpatient hospital admissions; therefore, the Legacy Medicaid pre-certification language in the Louisiana Administrative Code is outdated as this process is governed under the managed care authority. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to inpatient hospital service providers for FY 17-18, FY 18-19 and FY 19-20 since the requirement for precertification of inpatient hospital services for fee-for-service Medicaid recipients was discontinued with the implementation of managed care.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

| | |
|---|---|
| Jen Steele | Evan Brasseaux |
| Medicaid Director | Staff Director |
| 1712#023 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Health
### Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Intellectual Disabilities
Supplemental Payments
(LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing proposes to repeal LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated a Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department and established upper payment limits for supplemental payments to private intermediate care facilities entering into a cooperative endeavor agreement with the department (*Louisiana Register*, Volume 43, Number 4). The department subsequently determined that it was necessary to withdraw the corresponding State Plan amendment 16-0022 from consideration by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. As a result, the department now proposes to amend the provisions governing the reimbursement methodology for ICFs/ID in order to repeal the provisions of the April 20, 2017 Rule.

**Title 50**
**PUBLIC HEALTH—MEDICAL ASSISTANCE**
**Part VII. Long Term Care**
**Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**
**Chapter 329. Reimbursement Methodology**
**Subchapter A. Non-State Facilities**
**§32917. Supplemental Payments**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:663 (April 2017), repealed LR 44:

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 and no direct or indirect cost to the provider to provide the same level of service. These provisions 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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, January 25, 2018 at 9:30 a.m. in Room 173, 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.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities Supplemental Payments**

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 17-18. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that $216 will be collected in FY 17-18 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)

As a result of the Department's decision to withdraw State Plan amendment 16-0022 from consideration by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, this proposed Rule amends the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) in order to repeal the provisions of the April 20, 2017 Rule which adopted provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department and established upper payment limits for supplemental payments to private intermediate care facilities entering into a cooperative endeavor agreement with the department. It is anticipated that implementation of this proposed rule will have no costs or benefits to ICFs/ID in FY 17-18, FY 18-19 and FY 19-20, since no payments were made under these provisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1712#024

Evan Brasseaux
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections**
**Corrections Services**

Drug-Free Workplace (LAC 22:I.207)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of §207, Drug-Free Workplace.

**Title 22**
**CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**
**Part I. Corrections**
**Chapter 2. Personnel**
**§207. Drug-Free Workplace**

A. Purpose—to provide a comprehensive program of substance abuse education and to establish guidelines for employee drug and alcohol testing.

B. Applicability—deputy secretary, undersecretary, chief of operations, regional wardens, wardens, director of probation and parole and director of prison enterprises. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for conveying its contents to all concerned.

C. Policy. Substance abuse is a major contributor to criminal activity and is particularly detrimental to the department's mission to provide for the safety of employees and the public. Employees who engage in substance abuse may not be able to perform the essential functions of their positions and may be less likely to enforce policies and procedures effectively to control or to prevent illicit drug and alcohol use by other employees and offenders. Therefore, it is the secretary's policy to promote increased employee awareness of substance abuse and to achieve and maintain a workplace free of drugs and alcohol.

D. Definitions

*CAP-FUDT-Certified Laboratory*—a laboratory certified for forensic urine testing by the College of American Pathologists.

*Collection Site*—a designated place for the employee to provide a urine specimen to be analyzed for the presence of drugs.

*Custodian of Records*—a staff person responsible for the direct accountability of drug test results.

*Drug Testing*—

a. for the purpose of this regulation, drug testing programs shall be comprised of two testing components:

i. preliminary analysis (using the testing instrument available on the current contract issued by the procurement and contractual review division and approved by the secretary); and

ii. formal testing;

b. the application of formal testing may be contingent upon the results of the preliminary analysis. Alcohol testing consists only of administering the approved test and replicating any positive results.

*Employee*—any individual employed by or appointed to a position with corrections services (including student workers and temporary appointments and, for the purpose of this regulation, employees of Allen Correctional Center and Winn Correctional Center) or by an outside agency or provider who works in an institution or division or any individual under contract with corrections services who works in an institution or division.

a. (This does not necessarily confer "employment" status on independent contractors or employees of outside agencies, but serves to define a class of people who are subject to participation in the drug-free workplace program.)

*Formal Testing*—a second analytical procedure following a positive result on a preliminary analysis to identify the presence of a specific drug which is independent of the preliminary analysis using a different technique and/or chemical principle. Formal testing is conducted by a CAP-FUDT or SAMSHA-certified laboratory.

*Medical Review Officer* (*MRO*)—a licensed physician designated by the unit head who is responsible for receiving positive preliminary analysis results. The MRO must possess knowledge of substance abuse disorders and appropriate medical training to determine and evaluate an individual's positive result together with his medical history and other relevant biomedical information.

*Offender*—anyone in the physical custody of the Department of Public Safety and Corrections or under the supervision of the Division of Probation and Parole.

*Preliminary Analysis*—an immunoassay screen to detect the presence of drugs or metabolites using approved drug testing instruments. (See Paragraph H.1. for additional information.) The results of the preliminary analysis are to be used solely to indicate the need for additional formal testing, except for those who are being tested for pre-employment purposes. In this case, when the preliminary analysis is positive, it shall be sufficient cause to either remove the prospective employee from consideration for employment or appointment or be cause for conducting formal testing. If formal testing is conducted and the result is positive, this shall be cause for the prospective employee's elimination from consideration for employment or appointment.

*SAMSHA-Certified Laboratory*—a laboratory certified for forensic drug testing by the Substance Abuse and Mental Health Services Administration.

*SAMSHA Guidelines*—the mandatory guidelines for federal workplace drug testing programs as published in the Federal Register on April 11, 1988 (53 FR 11970), revised on June 9, 1994 (59 FR 29908), further revised on September 30, 1997 (62 FR 51118) and any further revised guidelines issued by SAMSHA.

*Safety/Security Sensitive Position*—any job which directly or indirectly affects the safety and security of others. For the purpose of this regulation, safety/security sensitive positions are those which involve direct contact with offenders and those having access to confidential information relative to the care, confinement or supervision of offenders.

*Unit Head*—the head of an operational unit, specifically, the undersecretary, warden, director of probation and parole and director of prison enterprises.

E. General. Each unit head is responsible for implementation of a substance abuse education program that requires compliance with this regulation. Each employee is responsible for refraining from illegal use, possession, sale or manufacture of controlled substances and from reporting to work or working while under the influence of alcohol, illegal drugs or impaired by prescription drugs.

F. Type of Testing

1. Pre-employment. drug testing shall be conducted prior to employment. (See Paragraph D.9 for additional information.) The unit human resources office is responsible for ensuring all new employees are given a copy of this regulation upon hire. All new employees shall sign and date the receipt of drug-free workplace regulation. A copy of this form shall be maintained in the employee's personnel file.

2. Reasonable Suspicion/Probable Cause. Reasonable suspicion/probable cause screening and subsequent testing, as appropriate, may be based on:

a. observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug or alcohol or when the odor of alcohol, marijuana smoke or other substance is present;

b. abnormal conduct or erratic behavior;

c. arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking (the term "trafficking" shall also mean "distribution");

d. information provided by reliable and credible sources or independently corroborated;

e. newly discovered evidence that the employee tampered with a previous drug or alcohol test;

f. Credible allegation or confirmation of involvement in a significant violation of policy in which judgment may have been impaired.

3. Post Accident/Incident. An employee shall be subject to drug and alcohol testing following an accident or incident that occurs during the course and scope of their employment if the employee's action or inaction may have been a causative factor and such incident:

a. involves circumstances leading to a reasonable suspicion of the employee's drug or alcohol use or impairment;

b. results in a fatality; or

c. results or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

i. An employee who is involved in an accident or incident that results in bodily injury or property damage may be subject to drug and alcohol testing.

ii. Should an employee refuse after being directed to submit to drug or alcohol testing as a result of an accident or incident, impairment shall be legally presumed under R.S. 23:1081 and State of Louisiana workers' compensation law benefits may be denied.

4. Rehabilitative. Staff testing positive without a legitimate explanation and whose employment is not terminated shall be subject to participation in a rehabilitation program. As a condition for returning to work after

participating in such a program, the employee must agree to follow-up testing on a random basis for up to 48 months. (Additionally, medical professionals who are participating in a rehabilitation program, substance abuse aftercare program or who have a documented substance abuse history must agree to periodic drug/alcohol testing throughout the course of their employment.)

5. Random. All employees who occupy safety/security sensitive positions (as defined in this regulation) shall be subject to random drug testing. On a monthly basis, a list of employee numbers representing at least 5 percent of a unit's employees shall be selected at random by a computer-generated selection process. This list shall be provided to each institution, the Division of Probation and Parole, Division of Prison Enterprises and headquarters.

a. The Office of Information Services shall generate the list of employee numbers at the prescribed interval and ensure that the lists are distributed directly to each unit head.

i. (Alternatively, if a unit has a drug-testing services contract with a CAP-FUDT or SAMSHA-certified laboratory, the production of this list may be included as part of those services.)

b. Unit heads shall establish a policy for matching the employee numbers to employee names, notification of selected employees, recording of test results and other appropriate procedures as needed.

c. All tests shall be conducted during the selected employees' work hours; no employee shall be called in on his day/night off specifically for the purpose of a random drug test.

d. The conduct of this program shall be in accordance with Subsection H of this regulation.

6. Promotion. Drug testing shall be conducted prior to promotion.

G. Substances to be Tested. In accordance with R.S. 49:1005, drug testing may be performed for any of the following classes of drugs: marijuana; opiates; cocaine; amphetamines; and phencyclidine in the random testing or preliminary testing process. This does not preclude testing for any other illegal drugs (e.g. methamphetamines), alcohol, or abused prescription medication if there is reasonable suspicion or probable cause.

H. Conduct of the Drug Testing Program

1. Preliminary Analysis

a. The testing instrument available on the current contract issued by the procurement and contractual review division and approved by the secretary shall be utilized as a preliminary analysis to determine the need for further testing, but may not be used as the basis for any disciplinary action or other adverse action. The collection process shall be done on-site by unit staff who have received the appropriate training. (Formal testing may be utilized initially in lieu of preliminary analysis when the unit head or designee determines that this is the most efficient method.)

b. When the test produces a positive result, the MRO shall be notified. The MRO shall obtain a list of medication used by the employee at the time of the test and shall give the employee the opportunity to provide a medical history and/or discuss the test results.

c. Upon review and evaluation of all available information, the MRO shall determine the need for formal testing.

d. If formal testing is deemed necessary by the MRO, the employee shall be escorted to a collection site by a unit staff person.

e. Pursuant to Paragraph D.9 of this regulation, it is not mandatory that the MRO review the results of a pre-employment preliminary analysis which results in a positive finding.

f. All employee preliminary testing shall be reported on the employee drug/alcohol field test.

2. Formal Testing

a. Formal testing shall be conducted by a CAP-FUDT or SAMSHA-certified laboratory and shall be performed in compliance with SAMSHA guidelines.

b. All urine specimens for drug testing shall be collected, stored and transported in strict accordance with SAMSHA guidelines. The cut off limits for drug testing shall also be in accordance with SAMSHA guidelines with the exception of initial testing for marijuana. The initial cut off level for marijuana shall be no less than 50 nanograms/ML and no more than 100 nanograms/ML as specified by the testing entity.

c. In the event of a positive result on a formal drug test, the laboratory's staff shall provide a copy of the results to the employee and to the unit head.

I. Conduct of the Alcohol Testing Program

1. Pursuant to established policy and procedures, employees are prohibited from reporting for or being on duty under the influence of alcohol or other intoxicants (or when the odor or effect is noticeable). Towards this end, employees may be required to submit to alcohol testing while on duty under circumstances defined in Subsection F.

2. A portable breathalyzer or other instrument and approved by the secretary shall be used to determine a violation of this regulation. In the event of a positive reading on the portable breathalyzer, a second test shall be conducted.

3. The alcohol test can be administered only by those persons specifically authorized by the unit head and who have been trained in the use of the testing instrument(s).

J. Training Required. A minimum of one hour of training per year on the effects and consequences of controlled substance abuse on personal health and safety at the workplace and indicators of substance use or abuse is required for all full time employees.

K. Record Keeping and Reporting Requirements

1. The custodian of records designated by each unit head shall maintain a record of each employee who has submitted to a drug or alcohol test, the date of such test, the name of the person performing the test, the number of tests performed and a summary of the results of each type of test.

2. All test results shall be retained for a minimum of three years after the employee resigns, retires or is dismissed from employment.

3. Pursuant to R.S. 49:1012, all information, interviews, reports, statements, memoranda and/or test results received through the unit's drug testing program are confidential communications and may not be used or received in evidence, obtained in discovery or disclosed in any public hearing or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

All such confidential information shall be maintained in a secure manner.

4. A monthly report utilizing the employee drug testing report of drug testing activities shall be compiled by the headquarters human resources office for submission in the C-05-001 report.

5. By November 1 of each year, each unit's business office shall submit a report to the headquarters human resources office detailing the number of employees affected by the drug testing program, the categories of testing conducted, the associated costs of testing and the effectiveness of the program. In conjunction with the undersecretary's office, the headquarters human resources office shall compile the department's annual employee drug testing report for submission to the Division of Administration annually by December 1.

L. Impaired Ability Due to Prescription or Over the Counter Medication

1. Employees in safety/security sensitive positions are required to notify their immediate supervisor when they are taking medication which may affect their ability to perform the essential functions of the job prior to the start of their work day/shift.

2. Upon notification, supervisors must immediately contact the unit's MRO or designee to determine if the employee can safely perform the job duties while under the influence of the stated medication.

3. Employees who may cause a direct threat to the safety and security of the public, staff or offender population while under the influence of such medication shall not be allowed to complete the workday and shall be placed in enforced sick leave.

M. Violation of this Regulation

1. The disciplinary penalties and guidelines shall be utilized in the administration of this regulation. Refusal to submit to testing may result in disciplinary action. Formal testing with positive results may be cause for initiation of disciplinary action.

2. When confirmed positive formal test results do not result in termination, referral to the employee assistance program or other individual or agency equipped to coordinate accessibility to substance abuse education or counseling is appropriate and may be made.

3. Any time there is a reasonable suspicion that any employee is impaired and could be a direct threat or cannot safely perform their essential functions due to the use of drugs (prescribed or other) or alcohol consumption, the employee shall be immediately removed from the employee's work station and taken to a secure location (away from any possible contact with offenders) for preliminary or formal testing.

4. If any employee tests positive for drugs or alcohol during either the random, preliminary or formal testing, the employee will be placed on appropriate leave status and escorted off the premises. If impaired, assistance shall be provided to ensure the employee is transported to a safe location. The employee shall not be allowed to return to work until the condition is resolved or no earlier than the next scheduled work day if the unit head or designee so approves the return to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Corrections Services, LR 25:522 (March 1999), amended LR 26:1308 (June 2000), LR 35:958 (May 2009), LR 39:3321 (December 2013), amended by the Department of Public Safety and Corrections, Corrections Services, LR 44:

**Family Impact Statement**

Amendment to the current Rule should not have any known or foreseeable impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

**Public Comments**

Written comments may be addressed to Natalie LaBorde, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on January 9, 2018.

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Drug-Free Workplace**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes will not create a material fiscal impact on state or local governmental unit expenditures as it primarily provides for technical adjustments to the rules. The proposed rule changes amend the contents of Section 207 Drug-Free Workplace, adding alcohol testing to potential post accident/incident requirements for employees. It specifically addresses the consequences for employee refusal to submit to drug or alcohol testing as a result of an accident; incident; impairment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1712#048

Evan Brasseaux
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections
### Office of State Police

Concealed Handgun Permit Issuance (LAC 55:I.Chapter 13)

In accordance with the provisions of R.S. 40:1379.1 relative to the authority of Louisiana Department of Public Safety to promulgate and enforce rules pursuant to the issuance of concealed handgun permits, Louisiana Department of Public Safety, Louisiana State Police hereby proposes to amend rules under LAC 55:I.1301, 1305, 1307, 1309, and 1315 in relation to requiring certified copies of court minutes as opposed to affidavits, clarification of arrest record, defining criminal offense, failing to disclose an arrest, requiring fingerprint cards when fingerprint card is not already on file, suspension of permits for DWI arrest, returning invalid permits, and reapplying for permit after denial.

**Title 55**
**PUBLIC SAFETY**
**Part I. State Police**

**Chapter 13. Issuance of Concealed Handgun Permits**

**§1301. Applications and Permits**

A. - E. …

F. Arrest Record. If the applicant has an arrest record, he shall present with the application a certified copy from the clerk of court or district attorney of the parish or county in which the arrests were made which specifies the disposition on all charges. Arrest record shall include an arrest, summons, nolle prossed charges, dismissed charges expunged charges, convictions which are set aside and any pardon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1. 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:495 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996), LR 38:1279 (May 2012), repromulgated LR 38:1415 (June 2012), amended LR 43:671 (April 2017), LR 44:

**§1305. Definitions**

A. ...

* * *

*Criminal Offense*—any act punishable by law. If the applicant or permittee has ever been arrested, charged, booked, fingerprinted, photographed, detained, indicted, or summoned for any criminal offense or violation regardless if charge was eventually dismissed or not prosecuted.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:1280 (May 2012), LR 43:672 (April 2017), LR 44:

**§1307. Applications and Permits**

A. - B.9. …

10. Incomplete applications, including failure to pay fees and failure to disclose an arrest or criminal offense, shall result in the rejection or denial of a permit application.

11. …

12. Any false statement or improper notarization contained in any report, disclosure, application, permit form, or any other document required by the department shall be a violation of these rules and shall be cause for denial, suspension, or revocation of the permit.

B.13. - D.4. …

5. Fingerprint cards shall be required upon renewal and/or submission of training for a lifetime concealed handgun permit if the Department of Public Safety determines that there is no concealed handgun permit fingerprint card submission on file. Failure to comply may be grounds for a denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:1281 (May 2012), repromulgated LR 38:1415 (June 2012), amended LR 43:673 (April 2017), LR 44:

**§1309. Permits**

A. - G.2. …

H. An otherwise lawful permit shall be considered automatically suspended and not valid while the permittee is under the influence of alcoholic beverages or a controlled dangerous substance. For purposes of these rules and the applicable law, a permittee shall be considered under the influence as evidenced by a blood alcohol reading of 0.05 grams percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 964. If permittee is arrested for DWI (R.S. 14:98 provisions), the suspension of the concealed handgun permit is indefinite until the DWI is formally resolved with a dismissal, nolle prose, or if the permittee is found not guilty of DWI, or until admission into and completion of a district attorney's pre-trial diversion program. Permittee shall provide proof of official disposition by a certified copy from the court or the district attorney's office.

I. For any arrest whereby the crime is punishable by a penalty which is disqualifying, the permit shall become invalid and remain invalid until the official judicial disposition of the charge. The concealed handgun permit shall be returned to the Concealed Handgun Permit Office at Louisiana State Police within 15 days after notification from the Concealed Handgun Permit Office.

J. The deputy secretary shall automatically suspend a permit for six months if a permittee fails to comply with the provisions of R.S. 40:1379.3(I)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR22:848 (September 1996), amended LR 38:1282 (May 2012), LR 44:

**§1315. Appeal and Hearing Procedures**

A. Notice of Permit Denial and Appeal

1. ...

a. Option 1—Informal Review. The applicant shall have 10 business days to request an informal review of documentation and evidence provided by the applicant setting out reasons the denial should be considered improper. If the application denial is upheld after an informal review,

the applicant may apply for a concealed handgun permit one year from the date of the denial letter. Should the applicant remain dissatisfied with the department's decision following this review process, the applicant may appeal this decision within 20 business days of receipt of the department's decision by requesting an administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

b. Option 2—Formal Appeal. The applicant may appeal the denial by the department in writing within 30 days of receipt of the department's decision by requesting an administrative hearing. If an administrative hearing is held, and the administrative law judge upholds the denial, the applicant may apply for a concealed handgun permit one year from the date of the signed decision by the administrative law judge. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

A.2. - C.7. …

8. If the application denial is for failure to disclose an arrest and the applicant chooses to reapply after the one-year period, the applicant shall disclose the subject arrest and provide the disposition of the subject arrest on the next concealed handgun permit application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:851 (September 1996), amended LR 38:1285 (May 2012), LR 43:675 (April 2017), LR 44:

**Family Impact Statement**

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**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 Paeton L. Burkett, Attorney, Louisiana State Police, 7979 Independence Blvd., Suite 307, Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

Requests for a public hearing must be submitted in writing either via email or written correspondence. Requests for a public hearing shall be sent to Paeton.burkett@la.gov or to Paeton L. Burkett, Attorney, Louisiana State Police, 7979 Independence Blvd., Suite 307, Baton Rouge, LA. 70806. The deadline for submitting a request for public hearing is January 10, 2018. All requests for a public hearing sent via written correspondence must be received by January 10, 2018.

Jason Starnes
Chief Administrative Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Concealed Handgun Permit Issuance**

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. The proposed rule changes modify certain requirements relative to the issuance of concealed handgun permits. The application process requires certified copies of arrest records as opposed to affidavits when providing arrest dispositions, clarifies arrest record, defines criminal offense, clarifies that an incomplete application includes failing to disclose an arrest, requires fingerprint cards when a fingerprint card is not already on file, clarifies the suspension of permits for DWI arrests and requiring disposition, mandates return of invalid permits within 15 days after notification, and clarifies reapplying for a permit after denial timeline.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no cost or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule changes.

| | |
|---|---|
| Jason Starnes | Evan Brasseaux |
| Chief Administrative Officer | Staff Director |
| 1712#015 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Revenue
### Policy Services Division

Electronic Progressive Mega Jackpot Bingo
(LAC 42:I.Chapter 17)

Under the authority of R.S. 4:707 and 729 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to repeal and reenact LAC 42:I.1703, 1781, 1783, 1785, 1787, 1789 and 1791 pertaining to Investigations and Civil Penalties and to adopt Electronic Progressive Mega Jackpot Bingo. The Notice of Intent is needed to provide guidelines and clarification for the Office of Charitable Gaming's administering requirements for the use of statewide electronic progressive mega jackpot bingo system.

Act 214 of the 2017 Regular Session of the Louisiana Legislature amended R.S. 4:707(J) to authorize the governing authority of a municipality or parish to transfer regulatory authority over charitable gaming in that municipality or parish to the Office of Charitable Gaming. The transfer from the municipality or parish to Office of Charitable Gaming shall be by ordinance. The Act also amends R.S. 4:732 and 739 to allow progressive mega jackpot bingo to be conducted with electronic bingo dabber devices.

### Title 42
### LOUISIANA GAMING
### Part I. Charitable Bingo, Keno, Raffle
### Chapter 17. Charitable Bingo, Keno and Raffle
### Subchapter A. General Requirements
### §1703. Definitions

A. As used throughout this Chapter, the following definitions apply.

*Act*—licensing law enacted as R.S. 4:701 et seq., on regulation of charitable gaming including all amendments thereto that may hereafter be enacted.

*Applicant*—the organization, its members, officers, agents, or employees who have applied for any license from the division.

*Bona Fide*, *Active*, or *Volunteer Member*—a person accepted for membership in an organization eligible to be licensed under this Part upon application, with such action being recorded in the official minutes of a regular meeting or who has held full and regular membership status in the organization. The member functions shall not be limited to gaming-related activities.

*Certain Related Offenses*—include the following offenses committed contrary to the laws of this state, local jurisdictions, other states, the federal government, or other countries:

a. any felony offense;

b. any offense directly or indirectly related to gambling or gaming laws;

c. the misdemeanor offense of any theft or related offense, any attempted theft or related offense, issuing worthless checks, illegal possession of stolen things, or false swearing or related offense.

*Charitable Gaming*—the conducting or assisting in the conducting of any game of chance authorized by R.S. 4:701 et seq.

*Charitable Gaming Supplies*—any supplies (except raffle tickets), equipment, device, goods or wares intended for use in the conducting of any charitable gaming provided by law. It includes, but is not limited to, the receptacle and numbered objects to be drawn from it, the master board upon which the objects drawn are placed, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the boards or signs, however operated, used to announce or display the number or designation as they are drawn, and all other articles essential to the operation, conducting and playing of bingo, keno, pull tabs or raffles. It also includes any computer system, software or cash register designed for the primary purpose of accounting for and reporting the transactions involved in the selling of share or shares to participate in charitable gaming. Bingo game sets commonly manufactured and sold as children's games for a retail price of $20 or less shall be presumed not to be bingo equipment for these purposes unless used by a licensee in the licensee's gaming activity.

*Department*—the Louisiana Department of Revenue and shall include the Office of Charitable Gaming, Louisiana Department of Revenue.

*Director*—the revenue tax director consistent with civil service regulations, designated by the secretary of the Louisiana Department of Revenue to head the office.

*Expenses*—ordinary, necessary and reasonable costs incurred in preparation for or in the conduct of the gaming activity.

*Ideal Net Proceeds*—the projected gross amount to be collected upon sale of all pull tabs in a set or deal minus:

a. the actual cost of the pull tabs to the organization; and

b. the projected total amount of prizes or winnings in the set or deal.

*Immediate Family*—the subject individual's spouse, children, parents, brothers and sisters, spouses of children, and spouses of brother and sisters.

*Licensee*—any organization licensed to conduct charitable gaming activity pursuant to R.S. 4:701 et seq., or licensed as a manufacturer or distributor of charitable gaming supplies, manufacturer or distributor of electronic video bingo machines, commercial lessors, or licensed as a private contractor for cable television bingo.

*Non-Commercial Lessor*—a bona fide non-profit organization licensed by the division to conduct games of

chance which leases any building or structure used for charitable gaming to other organizations licensed by the division.

*Office*—the Office of Charitable Gaming, Louisiana Department of Revenue.

*Patriotic*—in addition to any other commonly accepted meaning, an organization whose membership is composed of veterans of the United States of America Military to include without limitation, United States Army, United States Air Force, United States Marines, United States Navy, and United States Coast Guard, and said organization has acquired an appropriate nonprofit designation issued by the Federal Internal Revenue Service with its registered office and/or place of domicile in the state of Louisiana, or an auxiliary organization to such a veterans' organization.

*Private Contractor*—a firm or person possessing demonstrated skills in the conduct and administration of charitable games of chance, and licensed by the division to provide for the operation and management of cable television bingo and any employee or agent of such firm or person.

*Promotional Game*—any game, contest, or arrangement used by any entity in order to stimulate sales or attendance, where absolutely no purchase or fee is necessary in order to participate in or win the game, contest or event.

*Pull Tab* or *Charity Game Ticket*—a single or a banded ticket or card with its face covered to conceal one or more numbers or symbols where one or more cards or tickets in each set has been designated in advance as a winner.

*Pull Tab Set* or *Deal*—any form, series or group of pull tabs having the same serial number.

*Raffle*—a type of lottery in which several persons pay, in shares, the value of something put up as a stake, and then determine by chance which one of them shall become the sole possessor of it and any portion or share is retained by the person(s) conducting the raffle.

*Reasonable Market Rental Rate*—that rate at which similar facilities or equipment available for similar purposes, in the community may be leased or rented.

*Session*—represents authorized games of chance played within a time limit of 2 consecutive hours, within the same calendar day, with a minimum of 12 hours between sessions. The 4-hour session limit shall not apply to sessions held in conjunction with a bona fide fair or festival on property where no rent is paid for the session and payout of prizes is determined by the number of persons playing. Sessions are limited to not more than one session per day per licensee. In no instance, shall the total prize amounts exceed $4,500 per session without a special license. A session of keno or bingo, when the licensee possesses a special license is limited to six consecutive hours.

*Special License*—a license to conduct one bingo session where the total prize amount shall not exceed $25,000 in cash or things of equal value. No organization shall be issued more than two special licenses a year.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:701.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:157 (March 1986), amended LR 13:99 (February 1987), LR 17:383 (April 1991), Louisiana Legislature, House Concurrent Resolution Number 94 of the 1997 Regular Session, LR 25:205 (January 1999), amended by the Department of Revenue, Policy Services Division, LR 44:

**Subchapter F. Progressive Bingo**

**§1781. Progressive Bingo**

**[Formerly §1789]**

A. Any licensed charitable organization or organizations playing at the same location may deposit a predetermined amount of money up to limit set by R.S. 4:732(A)(2) before each licensed call bingo session into a special account in order to offer a jackpot prize.

B. Participating organizations may conduct up to two progressive bingo games which—may be conducted in conjunction with the organizations' regular bingo games.

C. A progressive bingo jackpot consists of all contributions made by participating organizations excluding the $200 start-up fee during the series of progressive bingo jackpot games.

D. A progressive bingo jackpot is won along with the regular jackpot prize when a player achieves a predetermined bingo pattern within a certain number of balls preapproved by the office. If no bingo is achieved within the predetermined number of balls, the organization's regular bingo game shall continue. The office may upon written request and adequate justification issue a written approval allowing organizations to increase the number of balls called to achieve a bingo.

E. If additional sheets are sold, they must be sold at $2 per sheet for the play of the progressive bingo games. The cut and configuration of sheets shall be established by the organization and shall be approved by the office in writing prior to use.

F. Each participating organization shall provide a start-up fee of $200 at the commencement of a progressive bingo game series for deposit into a charitable gaming progressive jackpot account. The $200 start-up fee deposit shall remain in the account until the progressive bingo games are discontinued by the organizations and shall be refundable upon termination of the games or to any single organization withdrawing from the games.

G. A separate checking account shall be opened by the participating organizations and the commercial or non-commercial lessor for the progressive bingo jackpot.

1. The account shall be in the name of charitable gaming progressive jackpot account which shall be imprinted on all checks. Checks from this account shall require two signatures.

2. The commercial or noncommercial lessor shall designate a representative who shall make deposits of all monies contributed to the progressive bingo jackpot by the close of bank business on the next banking day and who shall be responsible for maintaining the charitable gaming progressive jackpot account in accordance with generally accepted accounting principles approved by the office.

3. Designated representatives of the commercial or noncommercial lessor and each participating organization shall be authorized signatories on the account and shall be in attendance at the location at the conclusion of each respective organization's progressive bingo games for the purpose of issuing a check bearing the signatures of the hall representative and the organization representative from the special account to the winner.

4. All banking fees and costs shall be borne by the commercial or noncommercial lessor.

H. Each participating organization shall submit a check to the designated commercial or noncommercial lessor representative in a predetermined amount not to exceed limit set by R.S. 4:732(A)(2) prior to the commencement of the organization's scheduled call bingo session. The check shall be made payable to the charitable gaming progressive jackpot account. The predetermined contribution shall be nonrefundable except in the event of hall closure due to an act of god. Each predetermined contribution shall not constitute part of the total amount of prizes awarded during that call bingo session.

I. The dollar amount of the progressive bingo jackpot shall be continuously and conspicuously displayed only during call bingo sessions conducted by participating organizations at the location and within view of all patrons purchasing progressive and regular bingo sheets.

J. All checks written to the charitable gaming progressive jackpot account shall be reported in a manner acceptable to the office and the governing authority of the municipality or parish.

K. In accordance with R.S. 4:732(B)(1), participating organizations may establish a maximum jackpot or cap only upon written application to and receipt of written permission from the office. Once approved by the office, any subsequent change to the maximum jackpot or cap shall require written approval from the office. Participating organizations may, prior to the progressive bingo jackpot being won, raise but may not lower the maximum jackpot or cap.

1. Such request for written approval shall include at least the following information:

a. the location where the progressive bingo jackpot game shall be conducted;

b. the name and license number of each organization participating in the game;

c. the total amount of funds currently in the charitable gaming progressive jackpot account;

d. the current progressive jackpot in the charitable gaming progressive jackpot account;

e. the current amount of organizations' start-up fees in the charitable gaming progressive jackpot account;

f. the requested maximum jackpot or cap and the proposed date in which such maximum jackpot or cap shall be offered as the progressive bingo jackpot prize.

2. In the event that the maximum jackpot or cap established with the office is reached, organizations may continue to make contributions to the charitable gaming progressive jackpot account in the predetermined amount in order to accumulate a second or subsequent jackpots. However, once the maximum jackpot or cap is reached, participating organizations shall not offer any subsequent progressive bingo jackpot prize until such time that the first progressive bingo jackpot prize is won.

3. The dollar amount of the maximum jackpot or cap as established with the office shall be continuously and conspicuously displayed with the current accumulated dollar amount of the progressive bingo jackpots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:732.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division LR 20:448 (April 1994), amended LR 21:472 (May 1995), LR 22:111 (February 1996), amended by the Department of Revenue, Policy Services Division, LR 44:

**§1783. Progressive Mega Jackpot Bingo**
**[Formerly §1791]**

A. In accordance with R.S. 4:706(A) and (B) and R.S. 4:707(J), the governing authority of any municipality or parish shall decide whether a progressive mega jackpot bingo game shall be permitted within the municipality or parish. Such game shall be the aggregate of predetermined contributions made by a group of licensed charitable organizations before each licensed call bingo session deposited into one special account in order to offer a prize for a specific progressive mega jackpot bingo game. For the purpose of conducting a progressive mega jackpot bingo game, such organizations shall:

1. establish links or networks as provided in R.S. 4:732.(A)(1);

2. contribute a predetermined amount of money not to exceed limits set by 4:732(A)(2) per participating organization into one special account before each licensed call bingo gaming session. Each contribution shall be in the predetermined amount and shall not be considered part of the total amount of prizes awarded during that session.

B. Participation. Organizations shall participate in only one progressive mega jackpot bingo game at a time and only within the jurisdictional limits approved by the office.

C. Requirements Prior to Start Up. Each location, hall, commercial or noncommercial lessor that has any licensed organization(s) participating in the progressive mega bingo jackpot game shall transmit by facsimile to the office and to the respective governing authority of the parish or municipality or the certified public accountant or management company contracted to oversee the progressive mega jackpot bingo game, if applicable, the following information and documentation prior to the startup of a progressive mega jackpot bingo game or before any additional organizations are allowed to enter:

1. list of names of licensed charitable organizations participating in the progressive mega jackpot bingo game and the respective gaming location's name and physical address, and the designated organization representative as provided in Paragraph I.2 and any subsequent changes;

2. a copy of the authorized signatory cards for the progressive mega jackpot bingo account and any subsequent changes;

3. a copy of the ordinance from the governing authority of the municipality or parish allowing the progressive mega jackpot bingo game;

4. the governing authority of the municipality or parish, or the certified public accountant or management company contracted to oversee the progressive mega jackpot bingo game, if applicable;

5. the proposed starting date and session time of the progressive mega jackpot bingo game.

D. Entry and Withdrawal. Each participating organization shall provide a startup fee in the amount of $200 at the commencement of or entry into a progressive mega jackpot bingo game for deposit into a charitable gaming progressive mega jackpot bingo account. All organizations electing to participate in a progressive mega jackpot bingo game shall contribute the additional predetermined contribution prior to the commencement of a

progressive mega jackpot bingo game which shall constitute the progressive mega jackpot bingo prize for the first 24-hour period. This contribution is nonrefundable and shall also be considered part of the total amount of prizes awarded for each organization's first scheduled session of the progressive mega jackpot bingo game.

1. Each participating organization shall submit a check to the designated hall, commercial or noncommercial lessor representative in the predetermined amount during its licensed four hour session and prior to the commencement of the organization's first scheduled call bingo game made payable to the charitable gaming progressive mega jackpot bingo account. This predetermined contribution is nonrefundable and shall constitute part of the progressive mega jackpot bingo prize for the following day and shall not be considered part of the total amount of prizes awarded during that session.

2. If a participating organization voluntarily or involuntarily discontinues participation in the progressive mega jackpot bingo game for any reason, that organization shall not be allowed to re-enter the progressive mega jackpot bingo game until the current progressive mega jackpot bingo prize is won.

3. The $200 start-up fee deposit shall remain in the account until the progressive mega jackpot bingo game is discontinued by the organizations and shall be refundable upon discontinuance of the progressive mega jackpot bingo blackout game or to any single organization withdrawing, whether voluntarily or involuntarily, from the progressive mega jackpot bingo game within three calendar days of withdrawal.

4. Except as otherwise provided in Paragraph 2 of this Subsection, organizations shall be allowed entry into the progressive mega jackpot bingo game at any time before the progressive mega jackpot bingo blackout prize is won.

5. All monies accumulated in the progressive mega jackpot bingo account for a game shall be given away if all participating organizations in that game withdraw, voluntarily or involuntarily, and discontinue that progressive mega jackpot bingo game.

E. Structure of Game. The progressive mega jackpot bingo game shall be conducted in conjunction with the organizations' regular blackout bingo games and the structure of such game shall be as follows.

1. Only separate additional 3 on 1 up sealed vertical bingo sheets shall be sold at $2 per sheet for the play of only the progressive mega jackpot bingo game. Purchase of the 3 on 1 up sealed vertical bingo sheet shall afford patrons a chance to win the progressive mega jackpot bingo game and the regular blackout bingo prize.

2. Only those patrons who have purchased a minimum buy-in package for the organization's regular session games shall be allowed to purchase separate 3 on 1 up sealed vertical bingo sheets for the progressive mega jackpot bingo game at that session. The minimum buy-in package shall not contain sheets of cards that entitle a patron to win the progressive mega jackpot bingo prize, but the purchase of any such package shall afford a patron the opportunity to win only the respective organization's regular blackout bingo prize.

3. Any card or sheet that is altered from the original manufacturer's cut, collation, or print shall be invalid.

4. No progressive mega jackpot bingo game 3 on 1 up sealed vertical bingo sheets shall be sold after the first ball is called for the progressive mega jackpot bingo game. Such progressive mega jackpot bingo sheets shall:

a. be purchased by the organization from a licensed distributor;

b. have an assigned fixed value for each participating organization approved by the office in writing prior to startup of or entry into any progressive mega jackpot bingo game and shall only be good for the session date stamped;

c. be stamped with the words "progressive mega jackpot bingo game", the organizations' name, license number, and session date to be valid and shall not be purchased as part of a buy-in package.

5. The progressive mega jackpot bingo game shall be completed as the last called bingo game of the licensed session.

F. Amount of Prizes Awarded. A progressive mega jackpot bingo account consists of all contributions made by participating organizations excluding the $200 start up fee as provided in Subsection D of this Section during the progressive mega jackpot bingo game.

1. Except as otherwise provided in Subsection D of this Section, the dollar amount of the progressive mega jackpot bingo game shall be the accumulated dollar amount of all contributions deposited or due to be deposited into the progressive mega jackpot bingo account by all participating organizations in a progressive mega jackpot bingo game for the period ending at 12 a.m. (midnight) of the previous calendar day.

2. The dollar amount of any progressive mega jackpot bingo game shall not exceed the limit set by R.S. 4:732(B)(1). Participating organizations shall not cap the progressive mega jackpot bingo prize in an amount less than the limit. Once the limit is reached for any progressive mega jackpot bingo game, participating organizations shall continue to make contributions to the progressive mega jackpot bingo account to accumulate a second or subsequent jackpots. However, in the event that the limit is reached, organizations shall not offer any subsequent progressive mega jackpot bingo prize until such time that the progressive mega jackpot prize is won. Only one progressive mega jackpot prize of participating organizations shall be awarded during any 24-hour period as provided in Subsection G of this Section.

G. Time of Game. The organizations' licensed session starting time and date shall be the basis for determining the winner(s) to be paid during a 24-hour period. For purposes of determining the time of a progressive mega jackpot bingo prize winner(s), a 24-hour period shall include all licensed sessions of participating organizations licensed to commence beginning on or after 12:01 a.m. and ending 24 hours later on or before 12 a.m. (midnight).

H. Winner(s). A progressive mega jackpot bingo game shall be won when any player(s) achieves a blackout in 48 balls called or less only on the 3 on 1 up sealed vertical bingo sheet and only during the 24-hour period described in

Subsection G of this Section. Each face on any 3 on 1 up vertical bingo sheet shall be considered when determining the number of winners.

1. In the event that a patron achieves a blackout in 47 balls called or less on a sheet of cards from a minimum buy-in package, that patron shall win only the regular blackout bingo prize of the respective organization and that regular blackout bingo game shall end. If such a blackout is achieved in 47 balls called or less, play shall resume until the 48th ball is called, and once called, the progressive mega jackpot bingo game shall end. If no blackout is achieved, the game shall continue until a consolation prize is won as provided in Paragraph 5 of this Subsection.

2. In the event a patron achieves a blackout on sheets of cards from a minimum buy-in package on the same number of balls called as a patron who achieves a blackout on a 3 on 1 up sealed vertical bingo sheet, the regular blackout bingo prize of the respective organization shall be divided equally between all verified winners of the progressive mega jackpot bingo game at that session. The progressive mega jackpot bingo game shall be won only by a patron(s) who achieves a blackout on the 3 on 1 up sealed vertical bingo sheet as provided in this Subsection.

3. In the event there is more than one winner of the progressive mega jackpot bingo game during the 24- hour period as provided in Subsection G of this Section, the progressive mega jackpot bingo prize shall be divided equally between all verified winners of that progressive mega jackpot bingo game.

4. A patron who achieves a blackout on a 3 on 1 up sealed vertical bingo sheet in fewer balls called than a patron who achieves a blackout on a 3 on 1 up sealed vertical bingo sheet at another licensed session of a participating organization shall share the progressive mega jackpot bingo prize equally with all verified winners during the 24-hour period as provided in Subsection G of this Section.

5. If no blackout is achieved in 48 balls called or less, the organization's progressive mega jackpot bingo game shall continue until a consolation prize is won. The consolation prize shall be the respective organization's regular blackout bingo prize and shall constitute part of the total amount of prizes awarded during that called bingo session.

6. A ball shall not be considered called unless it has been announced by the caller.

7. The office may, upon written request and adequate justification, issue a written approval allowing participating organizations in a progressive mega jackpot bingo game to increase the number of balls called to achieve a progressive mega jackpot bingo prize winner. Such request shall be signed by all bingo chairpersons of each participating organization.

I. Noninterest Bearing Account. A separate noninterest bearing checking account shall be opened by the participating organizations for the progressive mega jackpot bingo game.

1. The account shall be in the name of charitable gaming progressive mega jackpot bingo account which shall be imprinted on all checks. Checks from this account shall require two signatures.

2. Each location, hall, commercial or non-commercial lessor that has any licensed organization(s) participating in the progressive mega jackpot bingo game shall designate in writing and submit to the office a representative who shall make deposits and obtain bank receipts of all monies contributed and deposited into the progressive mega jackpot bingo game account before the close of bank business on the next banking day.

3. At least two designated representatives of each participating organization shall be authorized signatories on the account.

4. Monthly bank statements for the progressive mega jackpot bingo game account shall be mailed directly to the governing authority of the municipality or parish, or the contracted certified public accountant or management company overseeing the progressive mega jackpot bingo game, if applicable.

5. All banking fees and other costs related to the progressive mega jackpot bingo game shall be borne as provided in Subsection N of this Section.

J. The dollar amount of the progressive mega jackpot bingo game shall be continuously and conspicuously displayed by participating organizations during call bingo sessions conducted only by participating organizations at least within the location and within view of all patrons purchasing progressive mega jackpot bingo sheets.

K. All revenues related to the progressive mega jackpot bingo game, and all checks written to and issued from the charitable gaming progressive mega jackpot bingo account shall be reported by each participating organization in a manner acceptable to the office, the governing authority of the municipality or parish, and the contracted certified public accountant or management company overseeing the progressive mega jackpot bingo game, if applicable.

L. Any licensed charitable organizations playing bingo within the state who participates in a progressive mega jackpot bingo game shall contract a certified public accountant or management company selected by the participating organizations and who shall be approved by the office to oversee the progressive mega jackpot bingo game and account in the event that the governing authority of the municipality or parish does not have a regulatory body to oversee the game. The governing authority of the municipality or parish, or if applicable, the contracted certified public accountant or management company approved by the office shall be responsible for, but not limited to the following:

1. reconciling bank statements monthly;

2. ensuring that each contribution for each session played has been properly deposited in a timely manner, as described in Subsection R of this Section;

3. ensuring that all banking fees and other related costs as provided in Subsection N of this Section are recovered from the proper parties;

4. ensuring that checks written on the account are disbursed only to verified progressive mega jackpot bingo blackout prize winners, to organizations requesting refunds of the $200 startup fee due to voluntary or involuntary withdrawal from the progressive mega jackpot bingo game as provided in Subsection D of this Section, or for those

purposes as may be necessary, if approved in writing by the office;

5. immediately notifying by facsimile all organizations participating in the progressive mega jackpot bingo game that the limit has been reached.

M. Equipment. Each location, hall, commercial lessor or noncommercial lessor that has any licensed organization(s) participating in the progressive mega jackpot bingo game shall have at least the following equipment on site and operational at all times.

1. Facsimile machine installation at each such location capable of transmitting to the office, the governing authority of the parish or municipality, or the certified public accountant or management company contracted to oversee the progressive mega jackpot bingo game, if applicable.

2. A minimum of at least one camera and one monitor at each such location that is capable of televising the first and the next ball to be called and the winning card(s) of the progressive mega jackpot bingo game(s) to the patrons at that session.

3. An office approved recording device at each such location capable of monitoring and recording any winning card and all bingo balls as they are extracted from the bingo machine and announced to the patrons along with any hand movement of the caller during the entire progressive mega jackpot bingo game.

4. A minimum of at least two bingo boards at each such location capable of displaying the bingo balls called for the regular games, the blackout game, the bonanza games, and the progressive mega jackpot bingo game.

5. A master verification checkbook or similar verification device at each such location depicting the faces of the bingo cards printed by the manufacturer of the bingo cards being used for the progressive mega jackpot bingo game.

N. Costs. Each location, hall, commercial or non-commercial lessor that has any licensed organization(s) participating in the progressive mega jackpot bingo game shall bear all costs, related to, but not limited to, the following:

1. facsimile machine installation at each such location capable of transmitting the required data and information to the office, the governing authority of the parish or municipality, or the certified public accountant or management company contracted to oversee the progressive mega jackpot bingo game for the parish or parishes, if applicable;

2. banking fees and other related costs, accounting fees of the certified public accountant or management company contracted to oversee all deposits, disbursements, and reporting and tax requirements of the progressive mega jackpot bingo game account(s), if applicable. These costs shall be shared by each such location proportionate to the number of sessions held at each site;

3. attorney fees as may be required for any progressive mega jackpot bingo game. These costs shall be shared by each such location proportionate to the number of sessions held at each site;

4. a minimum of at least one camera and one monitor at each such location that is capable of televising the first and next ball to be called and the winning card(s) of the progressive mega jackpot bingo game to patrons at that session;

5. an office approved recording device capable of monitoring and recording any winning card and all bingo balls as they are extracted from the bingo machine and announced to the patrons along with any hand movement of the caller during the entire progressive mega jackpot bingo game;

6. a minimum of at least two bingo boards capable of displaying the bingo balls called for the regular games, the blackout game, the bonanza games and the progressive mega jackpot bingo game;

7. a master verification checkbook or similar verification device at each such location depicting the faces of the bingo cards printed by the manufacturer of the bingo cards being used for the progressive mega jackpot bingo game.

O. Organization requirements and verification procedures. All licensed charitable organizations participating in a progressive mega jackpot bingo game shall use the following procedures in verifying the play and winner(s) of the progressive mega jackpot bingo game.

1. Use at each of its games the required camera, monitor, and office approved recording device at its gaming location to televise and record the following:

a. the caller announcing the organization's name, license number, session date and time prior to calling the first ball of the progressive mega jackpot bingo game;

b. all bingo balls as they are extracted from the bingo machine and announced to the patrons along with any hand movement of the caller during the entire progressive mega jackpot bingo game;

c. the winning card(s) of the progressive mega jackpot bingo game and to display on the monitor such card(s) to the patrons at that session.

2. Use at each of its sessions at least two bingo boards for its progressive mega jackpot bingo game.

3. Ensure that all bingo balls are available and have not been modified in any way from their original manufacture before placing them in play. Bingo balls shall be inspected by at least the hall manager, session manager, bingo manager, caller, and at least two bingo patrons before placing them in play for the progressive mega jackpot bingo game.

4. Ensure that any office, parish, or municipal representative, any bona fide active member of the participating organizations, any participating hall owner or representative(s), and any participating patron present has the right and ample opportunity to view and inspect any ball or balls for the progressive mega jackpot bingo game before placing them in play and after any winner has been achieved.

5. The caller shall announce:

a. the organization's name, license number, session date and time, and record this information on the video cassette prior to calling the first ball of the progressive mega jackpot bingo game;

b. the dollar amount of the progressive mega jackpot bingo prize prior to the start of each gaming session;

c. that the progressive mega jackpot bingo game shall commence at least five minutes before the first ball is called for the progressive mega jackpot bingo game;

d. when the forty-eighth ball is called and ask if there are any winners;

e. any progressive mega jackpot bingo game winners from another organization's licensed session for the 24-hour period as provided in Subsection H of this Section prior to the first called bingo game of a session or upon receipt of a the facsimile as provided in Paragraph 13 of this Subsection;

f. in order to be eligible to win the progressive mega jackpot bingo game and to collect the prize, one must possess two of the four types of personal identification as provided in Subsection P of this Section.

6. Reduce to writing the sequence that the bingo balls are actually called for the progressive mega jackpot bingo game. Such record shall be in ink and shall become part of the session records and shall be maintained for a period of three years as required by this Part.

7. In the event that there is a progressive mega jackpot bingo game winner as provided in Subsection H of this Section, the office approved recording device shall immediately be rendered incapable of further recording, and secured by the session manager of that organization.

a. The organization shall verify that the winning progressive mega jackpot bingo card(s) compares to the actual balls called. Such verification shall be made by at least the session manager, bingo manager, and the caller.

b. The organization shall use at each of its games the master verification checkbook or similar verification device at its gaming location to compare to the winning card(s) of the progressive mega jackpot bingo game to ensure that such winning card(s) is a valid winner and has not been altered. Such verification shall be made by at least the session manager, bingo manager, and the caller.

c. The organization shall forward such office approved recording to the office or to the governing authority of the municipality or parish within three business days where it shall be reviewed and retained for a period of one year.

8. In the event that a licensed bingo session is not held by any participating organization, such organization shall transmit a facsimile immediately to the office and the governing parish or municipal regulatory body or the contracted certified public accountant or management company, if applicable, stating that a licensed session was not held and the reason why the session was not held. This facsimile shall be signed by the organization's member-in-charge.

9. Ensure that the contracted certified public account or management company, if applicable, receives a copy of the participating organization's licensed scheduled sessions prior to beginning the progressive mega jackpot bingo game and any subsequent changes to said license.

10. Vouchers. All organizations participating in a progressive mega jackpot bingo game shall utilize the same type of carbon copy voucher when awarding progressive mega jackpot bingo prize winners. All required information on the voucher(s) shall be accurately completed and properly signed immediately after the winning progressive mega jackpot bingo card(s) has been verified as provided by this Subsection. The voucher(s) shall contain, but shall not be limited to, the following information:

a. organization name, license number, session date, and session starting time;

b. printed names and signatures of the session manager, bingo manager, and caller;

c. name of the hall;

d. number of winners for the session;

e. number of balls called for the winning card;

f. printed name, signature, current address, Social Security number, and telephone number of the winner.

11. Any winner(s) of the progressive mega jackpot bingo game shall be given the original voucher, and the carbon copy voucher(s) shall be retained along with the winning 3 on 1 up sealed vertical bingo sheet(s) by the organization awarding the progressive mega jackpot bingo prize. The progressive mega jackpot bingo winner(s) printed name(s), signature(s) and social security number(s) shall be affixed to the back of the winning card(s) in order to be valid.

12. Any participating organization(s) which has a progressive mega jackpot bingo winner(s) at its licensed session shall immediately transmit by facsimile the completed voucher(s), the session record as provided in Paragraph 6 of this Subsection and the winning card(s) of the progressive mega jackpot bingo game to the following:

a. the office;

b. governing parish or municipal regulatory body, if applicable;

c. the contracted certified public accountant or management company approved by the office for that progressive mega jackpot bingo game, if applicable;

d. all locations, halls, commercial and non-commercial lessors whose organizations participate in the progressive mega jackpot bingo game.

P. Payment of the Winner(s). The original voucher(s), the carbon copy voucher(s) and the original winning 3 on 1 up sealed vertical bingo sheet(s) shall be presented to the governing parish or municipal regulatory body or the contracted certified public accountant(s) or management company, if applicable, within three working days for verification. No winner(s) of the progressive mega jackpot bingo prize shall be certified and no winner shall be paid until verified by the governing parish or municipal regulatory body or the contracted certified public accountant or management company, if applicable. Any winner of the progressive mega jackpot bingo game shall be paid only by check from the charitable gaming progressive mega jackpot bingo account. No winner(s) of the progressive mega jackpot bingo prize shall be paid unless two of the following types of personal identification are presented by the winner(s) to the governing parish or municipal regulatory body or the certified public accountant or management company overseeing the progressive mega jackpot bingo account, if applicable:

1. Social Security card;
2. valid drivers' license;
3. voters' registration card;
4. birth certificate.

Q. Any organization awarding a progressive mega jackpot bingo prize shall be responsible for all local, parish, state, and federal tax withholding and reporting requirements.

R. Each location, hall, commercial or non-commercial lessor that has any licensed organization participating in the progressive mega jackpot bingo game shall:

1. prepare a detailed deposit slip(s) for all participating organizations' contributions to the progressive mega jackpot bingo game to be deposited from the previous calendar day indicating each licensed organization's name, license number, and the amount to be deposited;

2. deposit all participating organizations' contributions to the progressive mega jackpot bingo game from the previous calendar day(s) into the progressive mega jackpot bingo account before close of bank business on the next banking day, and maintain a detailed log of such deposits;

3. transmit daily by facsimile the detailed deposit slip and proof of deposit as provided in Paragraphs 1 and 2 of this Subsection to the governing parish or municipality regulatory body or the contracted certified public accountant or management company overseeing the progressive mega jackpot bingo account for that game, if applicable;

4. immediately and conspicuously display at each participating progressive mega jackpot bingo game site for a period of one week after the awarding of the progressive mega jackpot bingo game prize at least the following information concerning the progressive mega jackpot bingo winner:

a. the location, hall, commercial hall or noncommercial hall where the progressive mega jackpot bingo prize was won;

b. date and time that the progressive mega jackpot bingo was prize won;

c. the organizations' name, license number, and session starting time from which the progressive mega jackpot bingo prize was won;

d. the amount of the progressive mega jackpot bingo prize awarded;

e. the number of winners for that progressive mega jackpot bingo prize;

5. ensure that all bingo equipment, including but not limited to, the required camera, monitor, office approved recording device, bingo boards, and the verification device is properly maintained and is functional before and during each licensed session;

6. ensure that all bingo balls are available and have not been modified in any way from their original manufacture before placing them in play;

7. ensure that the progressive mega jackpot bingo prize amount is continuously posted and conspicuously displayed prior to and during the entire progressive mega jackpot bingo game of each respective organization;

8. ensure that a copy of the progressive mega jackpot bingo rules are continuously posted and conspicuously displayed for all patrons to review;

9. ensure that in the case of a hall closure that the participating organizations have the opportunity to hold a final session to award the progressive mega jackpot bingo prize as provided in Subsection D of this Section.

S. The following persons shall be strictly prohibited from playing for the progressive mega jackpot bingo prize.

1. No charitable gaming employee or volunteer shall play for the progressive mega jackpot bingo prize while on duty at the gaming site. For purposes of this Section, a gaming employee or volunteer is any member of the licensed organization holding, operating or conducting any game or games of chance or any member of another licensed organization assisting in the holding, operating or conducting of any game or games of chance. A gaming employee or volunteer working any part of a session or taking a temporary break shall be considered on duty for that gaming session. A charitable gaming employee or volunteer may play bingo, while off duty, at another gaming site other than the site where their organization(s) conduct(s) a licensed gaming session.

2. No location, hall, commercial or non-commercial lessor owners, or its shareholders, directors, employees or agents shall play the progressive mega jackpot bingo game at their licensed location.

3. No licensed distributor owners, or its shareholders, directors or agents shall play the progressive mega jackpot bingo game at any site.

4. No licensed manufacturer owners, or its shareholders, directors or agents shall play the progressive mega jackpot bingo game at any site.

5. No licensed private casino contractor owners, or its shareholders, directors or agents shall play the progressive mega jackpot bingo game at any site.

6. No employee who regulates charitable games of chance on a state, parish or local level shall play the progressive mega jackpot bingo game at any site.

T. Players of the progressive mega jackpot bingo game shall not be allowed to play bingo cards for any person enumerated in Subsection S of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:732.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division, LR 22:116 (February 1996), amended by the Department of Revenue, Policy Services Division, LR 44:

**§1785. Electronic Progressive Mega Jackpot Bingo**

A. Definitions

*Electronic Progressive Mega Jackpot Bingo Game System*—all components in electronic, computer, mechanical, or other technologic form that link and network together to support the play of one or more progressive mega jackpot bingo games including all functions.

*Local Server*—a computer server, located at the physical location where progressive mega jackpot bingo games will occur, that stores the game application software and which stores and communicates all game play information and accounting and inventory data records to a central server, to which a licensed distributor or progressive mega jackpot bingo game provider has access.

*Point-of-Sale Terminal*—a computerized checkout or cash register system that meets the standards as outlined below.

*Progressive Mega Jackpot Bingo Game Equipment*—the equipment used in the conduct of a linked and networked progressive mega jackpot bingo games and the EBCDDs solely used to play the progressive mega jackpot bingo games.

*Progressive Mega Jackpot Bingo Game Provider*—a person licensed as an electronic bingo card dabber device manufacturer or distributor who contracts with a licensed organization to provides electronic progressive mega jackpot bingo game system, equipment, or services to any licensed organization.

B. Each location, commercial lessor or noncommercial lessor, that offers progressive mega bingo jackpot game shall notify the office and the respective local governing authority, if a local license is required, a list of licensed organization(s) participating prior to the startup of a progressive mega jackpot bingo game. Licensed organization(s) shall participate in progressive mega jackpot bingo games only within the jurisdictional limits approved by the office.

C. Contracts with the electronic progressive mega jackpot bingo game provider will be required to be approved by the office prior to commencement of electronic progressive mega jackpot bingo games. Any changes to the existing contracts shall be approved by the office in writing prior to the changes occurring. All contracts will contain, at a minimum, the following:

1. safeguard the operation and oversight of the electronic progressive mega jackpot bingo game(s);

2. ensure jackpot limits set by R.S. 4:732(B)(2) are not exceeded;

3. ensure number of games per hour limitations set by R.S. 4:732(I) are not exceeded;

4. shall set forth entry and early withdrawal requirements for licensed organizations;

5. confirm in detail how the revenue proceeds split between the charity, the distributor and the progressive mega jackpot game provider will be handled by the progressive mega jackpot bingo game provider;

6. guarantee licensed organizations' share of revenue proceeds established by R.S. 4:732(H) are disbursed to charities at least monthly and no later than by the fifteenth day of the following month;

7. ascertain that all monies accumulated in the electronic progressive mega jackpot bingo account for the games shall be given away if all participating licensed organizations in that game withdraw, voluntarily or involuntarily, and discontinue the electronic progressive mega jackpot bingo game;

8. determine the lease price, if any, of the electronic bingo card dabber device to the licensed organizations;

9. any changes to an existing contract shall be approved by the office in writing before such changes can occur.

D. Winner(s). An electronic progressive mega jackpot bingo game shall be won when any player(s) achieves a winning pattern as prescribed in a format approved by the office. The progressive mega jackpot bingo game provider shall be responsible for all local, parish, state, and federal tax withholding and reporting requirements.

E. An electronic progressive mega jackpot bingo game system must, at a minimum, contain or be capable of the following:

1. capable of recording and maintaining the following information for the sales or purchases of progressive mega jackpot bingo game for a period of at least three years:

a. date, time and price of individual of sales;

b. the progressive mega jackpot bingo game provider's unique identification code;

c. detailed sales and accounting reports, including the price and the number of electronic progressive mega jackpot bingo game sheets or facsimiles of bingo game sheets sold at each permitted premises;

d. the quantity of electronic progressive mega jackpot bingo games conducted; and

e. display the current value of currency given to a player;

2. capable of recording and maintaining the following information for each redeemed electronic progressive mega jackpot bingo game prize for a period of at least three years:

a. date, time and amount of prize payout;

b. the series number of the winning electronic progressive jackpot bingo game sheet;

c. display the value of currency awarded to a player;

d. have the capability of producing a printout for any and all games in play at any time; and

e. have the capability of printing out the final game record once an electronic progressive mega jackpot bingo game is closed;

3. capable of recording and maintaining all financial transaction reports and a log of significant events or exceptions relating to accounting, sales, and payouts. The electronic progressive mega jackpot bingo game system capable of printing such reports on demand by the office;

4. allow secured off site access by office and other authorized personnel to real time data including all accounting for sales, prizes and credits per device;

5. contains a point of sale terminate as part of the electronic progressive mega jackpot game system;

6. contain an electronic random number generator for the selection of bingo numbers;

7. contain a means of entering electronic serial and face numbers within the database for verification of winning bingo faces;

8. possess a database of all known bingo perms used in conjunction with the electronic progressive mega jackpot game and will not allow for changes and/or modifications to the bingo faces;

9. not allow more than one electronic bingo card dabber device per player;

10. maintain an internal clock with current synchronized time for all components in a 24 hour format. The clock must be able to report the time stamping of significant events, including all sales and draw events as well as reference time for reporting; and

11. be protected by a surge protector and an uninterruptible power supply so that existing data is preserved.

F. An electronic progressive mega jackpot game system shall have an automatic system to save all sales, financial, and game data separate from local server.

G. An electronic progressive mega jackpot bingo game system must be tested by an office approved independent testing laboratory certifying the system meets the requirement of this section. Any changes in a version or code build number that has an effect on the outcome or a previously approved game must be re-tested by a certified independent testing laboratory.

H. All application software must be owned by the progressive mega jackpot bingo game provider. The progressive mega jackpot bingo game provider must provide the office with documentation establishing ownership of the

intellectual property rights to the entire game application software and system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707 and 732 and La. R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 44:

**Subchapter G. Investigations**

**§1787. Investigation of License Holders [Formerly LAC 42:I.1781]**

A. The department may, upon its own motion, investigate the actions of any licensee, licensed manufacturer or distributor. The investigation shall be undertaken for the purpose of gathering evidence and determining whether a violation of the Act, rule or other statutes of the state of Louisiana has occurred. All licensees, including licensed manufacturers and distributors shall fully cooperate with the division in any such investigation. Cooperation shall include but not be limited to making available for inspection all premises, equipment, books of accounts, records, documents and such information the division may require to insure compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:705(6) and R.S. 4:721(B)(5).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 13:104 (February 1987), repromulgated by the Department of Revenue, Policy Services Division, LR 44:

**§1789. Suspension and Revocation of License Holders [Formerly LAC 42:I.1783]**

A. The department may suspend any license held by an alleged violator after opportunity for hearing when:

1. the department receives:

a. a certified copy (or other credible evidence) of any judgment or conviction of any licensee or his agent, servant or employee for any violation of any criminal law or ordinance of the United States, the state of Louisiana or any Louisiana parish, city or town relating to charitable gaming or gambling; or

b. a certified copy of the record (at other credible evidence) of the forfeiture by any permittee or his agent or employee of bond to appear to answer charges of violating any law or ordinance relating to charitable gaming or gambling; or

2. the department, after investigation, has reasonable cause to believe that any license holder, his agent or employee has violated the provisions of the Act or these rules.

B. The department may suspend a license prior to the opportunity for hearing, when the department, after investigation has reasonable cause to believe continued operation of the licensee endangers public health, safety or welfare. During the period of suspension, the licensee shall not conduct charitable gaming.

C. A license may be revoked, subsequent to opportunity for a hearing, as penalty for violation of the Act or these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:705(4) and R.S. 4:718(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:157 (March 1986), amended LR 13:104 (February 1987), repromulgated by the Department of Revenue, Policy Services Division, LR 44:

**§1791. Right to Fair Hearing—Judicial Review [Formerly LAC 42:I.1785]**

A. When the department revokes, suspends, restricts or denies an application for license renewal, the applicant may request a hearing. The request for a hearing shall be made in writing to the department within 15 days of the revocation, suspension, restriction, or denial by the department. Upon the department's receipt of written request, a hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:705(11)(a) and R.S. 718(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Charitable Gaming Division, LR 12:157 (March 1986), amended LR 13:105 (February 1987), LR 20:448 (April 1994), repromulgated by the Department of Revenue, Policy Services Division, LR 44:

**Subchapter H. Civil Penalties**

**§1793. Penalty Provisions [Formerly LAC 42:I.1787]**

A. Civil penalties may be assessed by the division against any person, licensee or other legal entity in accordance with the following schedule.

1. Except as provided in LAC 42:I.1755.B, violations of statutes or administrative rules relative to reporting requirements including, but not limited to, submission of quarterly reports shall be subject to a civil penalty not in excess of $100 per violation.

2. Violations of statutes or rules relative to the conducting of games of chance, including but not limited to, conducting unauthorized games, participation by unauthorized persons, unauthorized distribution or procurement of supplies or equipment, failure to maintain proper records of gaming sessions, failure to properly use and retain records relative to the model accounting system shall be subject to a civil penalty not to exceed $500 per violation.

3. Violations of statutes or administrative rules relative to making false statements in documents submitted to the division and maintained by the organization including, but not limited to, the applications, monthly or quarterly financial reports, inventories, session records, and any supporting documentation shall be subject to a civil penalty not in excess of $1,000 per violation.

4. Violations of statutes or rules relative to the use of charitable gaming proceeds including, but not limited to, using net gaming proceeds in whole or in part for any uses other than educational, charitable, patriotic, religious or public spirited shall be subject to a civil penalty not to exceed $2,000 per violation.

5. Violations of statutes or rules relative to theft or misappropriation of charitable gaming proceeds shall be subject to a civil penalty not to exceed $5,000 per violation.

6. Failure to comply with orders, warnings or mandates of the division or to comply with agreements entered into with the division shall be subject to a civil penalty of $500 per violation.

7. Any other violation of a statutory provision or administrative rule for which a penalty is not provided for in this Section shall be subject to a civil penalty not to exceed $500 per violation.

B. In addition to denial of a license, refusal to renew a license, restriction, suspension, revocation, civil penalty, or bar from participation in charitable gaming activities, the division may order any person, licensee, or other entity to make full restitution in the amount of any misused, misappropriated or stolen charitable gaming proceeds to the organization or persons deprived thereof and may institute appropriate action for the collection of said amounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:705(8), R.S. 4:721(D)(1) and R.S. 4:735.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 13:105 (February 1987), amended LR 18:283 (March 1992), repromulgated by the Department of Revenue, Policy Services Division, LR 44:

**Family Impact Statement**

The proposed Rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

**Poverty Impact Statement**

The proposed Rule will have no impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

The proposed Rule will have no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required 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.
3. The overall effect on the ability of the provider to provide the same level of service.

**Small Business Analysis**

The proposed Rule should have no measurable impact on small businesses as described in R.S. 49:965.6.

**Public Comments**

All interested persons may submit written data, views, arguments or comments regarding this proposed Rule to Shanda J. McClain, Attorney Supervisor, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., January 23, 2018.

**Public Hearing**

A public hearing will be held on January 24, 2018 at 10 a.m. in the LaBelle Room, located on the 1st Floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly Lewis Robinson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
**RULE TITLE: Electronic Progressive Mega Jackpot Bingo**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No direct costs or savings to state or local governmental units due to the implementation of this proposed rule are expected.

The proposed rule increases the number of progressive bingo games that can be played alongside a charitable organization's regular bingo games from one to two, and requires commercial and non-commercial lessors to open a checking account in the name of the jackpot. It increases the maximum allowable predetermined contribution from charitable organizations to lessors from $100 to the $200 maximum set in R.S. 4:732 for both progressive and mega jackpot bingo, and specifies that this contribution cannot be a part of the prizes awarded. It specifies that organizations may participate in a mega jackpot bingo at the same time and location as a progressive bingo game, and increases the maximum allowable mega jackpot from $50,000 to the $100,000 maximum set in R.S. 4:732. It sets a requirement for the Office of Charitable Gaming's approval of allowable recording devices, and codifies common practice for participating manufacturers, distributors, and by setting specific equipment requirements for the storage of detailed sales and prize data. In addition, it provides guidance for the implementation of electronic statewide progressive mega jackpot bingo utilizing electronic dabbers devices.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposal is not expected to materially impact the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Manufacturers and distributors of electronic bingo related equipment and charitable organizations that conduct charitable electronic progressive jackpot bingo will be affected by this proposal. Additional costs to manufacturers and distributors are expected to be minimal, and charitable organizations may experience a modest increase in sales.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Kimberly Lewis Robinson
Secretary
1712#045

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

## NOTICE OF INTENT

**Department of Transportation and Development**
**Professional Engineering and Land Surveying Board**

Engineering and Land Surveying
(LAC 46:LXI.Chapters 1, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, and 33)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et

seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.101 to 3301.

This is a housekeeping revision of existing rules under which LAPELS operates.

**Title 46**
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**
**Part LXI. Professional Engineers and Land Surveyors**
**Chapter 1. General Provisions**

**§101. Evidence of Qualification; Licensure**

A. In order to safeguard life, health and property, and to promote the public welfare, any individual in either public or private capacity, or foreign or domestic firm, practicing or offering to practice engineering or land surveying in the state of Louisiana, shall be required to submit evidence that they are qualified to so practice and shall be licensed with the board. Unless specifically exempted by law, it shall be unlawful for any person to practice or to offer to practice in the state of Louisiana, engineering or land surveying, as defined in the licensure law and the rules of the board, or to use in connection with their name or otherwise assume, use or advertise any title or description tending to convey the impression that they are a professional engineer, professional land surveyor, professional engineering firm or professional land surveying firm, unless such person has been duly licensed under the provisions of the licensure law and the rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:643 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 44:

**§103. Rulemaking**

A. Under the provisions of R.S. 37:688, the board has the authority to make, adopt, revise, amend, promulgate and enforce bylaws, rules and regulations consistent with the constitution and laws of the state of Louisiana. This is necessary for the proper performance of the duties of the board and the regulations of the proceedings before it, as well as for the protection of the public and the proper administration of the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:643 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 44:

**§105. Definitions**

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

*ABET*—Accreditation Board for Engineering and Technology, Inc.

*ANSAC/ABET*—the Applied and Natural Science Accreditation Commission of ABET.

*Accredited Engineering Curriculum*—a curriculum approved by EAC/ABET as an engineering academic program that satisfies the academic requirements for the practice of engineering at the professional level.

*Accredited Land Surveying Curriculum*—a curriculum approved by ANSAC/ABET as a land surveying or geomatics academic program that satisfies the academic requirements for the practice of land surveying at the professional level.

* * *

*Bona Fide Employee*—an individual in the service of an employer under a contract of hire, expressed or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed and the employer pays wages or a salary directly to the employee, pays a share of social security and federal unemployment tax, withholds federal income tax and the employee's share of Social Security payments, provides training, furnishes tools and materials, and sets hours of work. Generally such employees work full-time for the employer, perform work at a location assigned by the employer and do not offer their services to the general public.

*Bona Fide Established Commercial Marketing Agency*—a business which is specifically devoted to public relations, advertising and promoting the services of a client, and which may be appropriately licensed as required by state law.

*EAC/ABET*—the Engineering Accreditation Commission of ABET.

*Employees*—for purposes of R.S. 37:701(C) only, shall mean:

a. any and all individuals to or for whom a firm engaged in industrial operations pays salary or other compensation, withholds taxes, provides benefits or pays workers' compensation and/or liability insurance, including without limitation all individuals covered by the definition of *bona fide employee* as set forth in the rules of the board; or

b. …

* * *

*Fraud*, *Deceit*, or *Misrepresentation*—as used in R.S. 37:698(A)(1) or (2) or R.S. 37:700(A)(3), shall mean intentional deception to secure gain, through attempts to deliberately conceal, mislead, or misrepresent the truth with the intent to have others take some action relying thereupon, or any act which provides incorrect, false, or misleading information, upon which others might rely.

*Gross Incompetence*—as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee who is either incapable of exercising ordinary care and diligence or who lacks the ability and skill necessary to properly perform the duty undertaken. (The practice of engineering in a discipline other than that in which the licensee has been listed will not be considered as evidence of gross incompetence, provided the licensee is otherwise qualified by education or experience.) Examples of practice which the board may consider to constitute gross incompetence include but are not limited to:

a. the undertaking of assignments other than those for which the licensee is qualified by education or experience in the specific technical fields involved; or

b. the affixing of the licensee's signature or seal to any engineering or land surveying plan or document dealing with the subject matter in which the licensee lacks competence by virtue of education or experience.

*Gross Misconduct*—as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee who performs any acts, causes any omissions or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the professions of engineering or land surveying. Gross misconduct as used herein shall also include any act or practice in violation of the board's rules of professional conduct or the board's rules on use of seals.

*Gross Negligence*—as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee characterized by the licensee's lack of reasonable care, precaution, or attention to the life, health, safety, property or welfare of others, which could result in injury or damage to life or property or financial loss. Examples of practice which the board may consider to constitute gross negligence include, but are not limited to:

a. the preparation of an incomplete or inaccurate engineering or land surveying plan or document that is below acceptable standards, which is released for construction or other lawful purposes, and which could result in financial loss, damage or injury; or

b. failure of the licensee to exercise reasonable diligence and care in providing professional services, which could result in financial loss, damage or injury.

*NCEES*—the National Council of Examiners for Engineering and Surveying.

*NCEES Model Law Engineer*—Repealed.

*NCEES Model Law Surveyor*—Repealed.

* * *

*Practice of Engineering*—

a. practice of engineering is defined in R.S. 37:682. The board recognizes in the design of buildings and similar structures that there is overlap between the work of architects and professional engineers. It is recognized that an architect who has complied with all of the current laws of Louisiana relating to the practice of architecture has a right to engage in some activities properly classifiable as the practice of engineering insofar as it is necessarily incidental to his/her work as an architect. Likewise, it is recognized that the professional engineer who has complied with all of the current laws of Louisiana and is properly licensed has the right to engage in some activities properly classifiable as architecture insofar as it is necessarily incidental to his/her work as a professional engineer. Furthermore, the architect or the professional engineer, as the case may be, shall assume all responsibility for compliance with all the laws or ordinances relating to the designs or projects in which he/she may be engaged;

b. teaching of engineering design and the responsible charge of the teaching of engineering design shall be considered as the practice of engineering. An accredited engineering curriculum ensures the minimum quality requirements for the teaching of engineering design. Thus, the teaching of engineering design courses and the responsible charge of the teaching of engineering design courses must be conducted by professional engineers or by engineering faculty in an accredited engineering curriculum. These unlicensed engineering faculty members are exempt from licensure by the board only for the purpose of teaching of engineering design courses and the responsible charge of the teaching of engineering design courses in an accredited engineering curriculum and shall not otherwise practice or offer to practice engineering in the state of Louisiana as defined by R.S. 37:682 without being licensed by the board.

*Practice of Land Surveying*—defined in R.S. 37:682. The board recognizes that there exists a close relationship between land surveying and some areas of engineering, with some activities common to both professions; however, survey work related to property boundaries must be performed under the responsible charge of a professional land surveyor. Presented below are guidelines which shall be used as an aid in determining the types of surveying services which may be rendered by professional land surveyors or professional engineers.

a. - a.iii. ...

b. Surveying and mapping functions not unique to land surveying must be performed by or under the responsible charge of a professional land surveyor whenever they require the establishment of relationships to property ownership boundaries. These functions include:

i. - iii. …

iv. surveys for record drawing;

v. - viii. …

c. Surveying and mapping functions which do not require the establishment of relationships to property ownership boundaries must be performed by or under the responsible charge of either a professional engineer or a professional land surveyor. These surveying and mapping functions include:

c.i. - d. …

* * *

*Seal*—a symbol, image, or list of information that may be found in the form of a rubber stamp, computer-generated data, or other form found acceptable to the board that is applied or attached to a document in a manner consistent with the board's rules on use of seals.

* * *

*Under the Responsible Charge of a Professional Engineer*—as it applies in R.S. 37:701(C) only, shall mean:

a. the work performed by a professional engineer duly licensed under the provisions of the licensure law; or

b. the work reviewed and approved by a professional engineer duly licensed under the provisions of the licensure law, who is authorized to direct changes to the engineering work; or

c. the work performed in accordance with a system of engineering practices approved by a professional engineer duly licensed under the provisions of the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), amended by the

Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 32:1618 (September 2006), LR 35:1908 (September 2009), LR 38:835 (March 2012), repromulgated LR 38:1030 (April 2012), LR 44:

**Chapter 7. Bylaws**

**§701. Board Nominations**

A. …

B. The practice area of engineering of each professional engineer board member shall remain unchanged during each administrative year.

1. Professional engineer board members shall continue to represent the practice area of engineering for which appointed.

2. Professional engineer board members who retire from active practice shall continue to represent the practice area of engineering for which appointed and currently serving at the time of retirement.

C. …

D. In the event of the death, resignation or removal of a board member, the executive director shall immediately notify the appropriate nominating organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:298 (August 1978), amended LR 5:120 (May 1979), LR 11:1179 (December 1985), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1023 (July 2001), LR 30:1706 (August 2004), ), LR 37:2411 (August 2011), LR 44:

**§703. Compensation and Expenses**

A. Authority to Incur Traveling Expenses

1. …

2. The board may, by resolution at one of its meetings, authorize any of its members or representatives to travel at the expense of the board to attend meetings and conventions such as those of NCEES, ABET, or other allied organizations. Per diem for time spent traveling and for time spent at the meeting will be allowed.

B. Reimbursement of Transportation Expenses

1. Expenses for transportation by personally-owned vehicles shall be reimbursed at the mileage rate specified by the board at a regular meeting. Reimbursement shall be on the basis of the most direct route. The traveler shall be required to pay all of the operating expenses of the vehicle.

B.2. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:58 (February 1976), amended LR 5:110 (May 1979), LR 11:1182 (December 1985), LR 19:55 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1023 (July 2001), LR 30:1707 (August 2004), LR 44:

**§705. Meetings**

A. - B. …

C. Special Meetings. The chairman or the secretary may call special meetings when considered necessary. Upon written request of at least six board members, the chairman is required to call a special meeting.

D. - E. …

F. Separate Notice of All Meetings. In addition, separate written public notice of any regular, special, or rescheduled meeting shall be given no later than 24 hours before the holding of the meeting. This separate notice shall include the agenda, date, time and place of the meeting.

G. Posting of Notice. The written public notice discussed in §705.E and F shall include:

1. …

2. publication of the notice on the board website no less than 24 hours before the meeting.

H. Notice to Board Members. Notice of all meetings, in conformity with §705.E and F, shall be given in writing to each board member by the executive director.

I. ….

J. *Robert's Rules of Order. Robert's Rules of Order* shall govern the proceedings of the board at all meetings, except as otherwise provided herein or by law.

K. Location of Meetings. All meetings shall be held at the board office, unless, in the judgment of the chairman, it is necessary, convenient or preferable to meet elsewhere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:118 (May 1979), LR 11:1181 (December 1985), LR 19:55 (January 1993), LR 21:1354 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1023 (July 2001), LR 30:1707 (August 2004), LR 44:

**§707. Board Organization**

A. - C. …

D. Duties

1. …

2. Vice Chairman. The vice chairman shall, in the absence of the chairman, perform the duties of and possess all of the powers of the chairman. Should the chairman's membership on the board end prior to the election of his/her successor, the vice chairman shall automatically assume the duties of chairman.

3. Secretary. The secretary shall:

a. be the official custodian of the records of the board and of the seal of the board and ensure that the seal of the board is affixed to all appropriate documents;

b. sign, with the chairman, certificates, the issuance of which shall have been authorized by resolution of the board;

3.c. - 4.…

E. Committees. The board may establish standing committees, including but not limited to the following: executive committee, engineering committees, land surveying committee, engineer intern committee, laws and rules committee, education/accreditation committee, finance committee, nominations and awards committee, complaint review committees, continuing professional development committee, firm licensure committee, and enforcement committee. The board may also establish ad hoc committees from time-to-time as necessary.

1. - 5. …

6. Laws and Rules Committee. The chairman of the board shall appoint a laws and rules review committee composed of not less than two board members. The laws and rules committee shall work with similar committees of

professional and technical organizations on matters of mutual concern. The laws and rules committee shall also make recommendations to the board in matters concerned with the licensure law and the rules of the board.

7. - 13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:110 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1024 (July 2001), LR 30:1707 (August 2004), LR 33:2788 (December 2007), LR 35:1908 (September 2009), LR 37:2411 (August 2011), LR 38:2563 (October 2012), LR 40:1388 (July 2014), LR 42:1104 (July 2016), LR 44:

**§709. Executive Director**

A. - B. …

C. Duties of the Executive Director. The executive director shall:

1. …

2. record and file all applications, Louisiana laws of land surveying examinations, licenses, certificates, suspensions, revocations and disciplinary and enforcement actions;

3. - 7. …

8. supervise the administration of the Louisiana laws of land surveying examinations examination;

9. - 10. …

11. notify by letter to the last known address, every licensee and certificate holder of the date of the expiration of the license or certificate and the amount of the fee that shall be required for its renewal;

12. - 13. …

14. investigate and dispose of allegations and apparent violations of the licensure law when possible and refer any such matters requiring formal action to complaint review committees;

15. assist the board in the adoption and amendment of rules and bylaws in accordance with the state law;

16. - 17. …

18. be an associate member of NCEES;

19. - 24. …

25. assist in the legislative audit made of all receipts and disbursements at the close of each fiscal year by a certified public accountant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation, Board of Registration for Professional Engineers and Land Surveyors, LR 2:53 (February 1976), amended LR 5:118 (May 1979), LR 11:1180 (December 1985), LR 19:55 (January 1993), LR 21:1354 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1025 (July 2001), LR 30:1709 (August 2004), LR 37:2412 (August 2011), LR 38:2563 (October 2012), LR 44:

**§713. Amendments to Bylaws**

A. The bylaws of the board may be amended at any regular or special meeting, provided, however, that such proposed amendments have been submitted in writing to the members of the board at least 30 days prior to the meeting. The board may waive this 30-day provision at a regular or special meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:54 (February 1976), amended LR 5:119 (May 1979), LR 11:1183 (December 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1026 (July 2001), LR 30:1710 (August 2004), LR 44:

**§715. Rulemaking Process**

A. Power to Promulgate Rules. Under the provisions of the licensure law, the board is given the power to make and promulgate rules and regulations necessary for the proper performance of its duties and the regulations of the proceedings before it, as well as for the protection of the public and the proper administration of the licensure law.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:54 (February 1976), amended LR 5:119 (May 1979), LR 11:1182 (December 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1026 (July 2001) LR 30:1710 (August 2004), LR 37:2412 (August 2011), LR 44:

**§719. Minutes**

A. …

B. Required Items for Inclusion. The minutes shall include, but need not be limited to:

1. - 2. …

3. the substance of all matters decided, and, at the request of any board member, a record, by individual board member, of any votes taken.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1026 (July 2001), LR 30:1710 (August 2004), LR 44:

**§723. Voting**

A. General Provisions. Unless otherwise specified in the following Subsections, a simple majority of a quorum of the board at a meeting properly noticed and convened is necessary in order to elect an officer or approve a measure before the board.

B. - C.2. …

D. Approval of Items Added to Agenda. If two or more board members present at a regular or special meeting are agreed to defer action of a matter not on the original agenda of the meeting that matter shall not be approved and shall be placed on the original agenda of the next scheduled meeting.

E. - H.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for

Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), amended LR 19:55 (January 1993), LR 21:1355 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1027 (July 2001), LR 30:1711 (August 2004), LR 44:

**§725. Executive Session**

A. Reasons for Calling Executive Sessions. Executive sessions may be held for the following purposes:

1. discussion of the character, professional competence, or physical or mental health of a person, provided that such person is notified in writing at least 24 hours, exclusive of Saturdays, Sundays and legal holidays, before the scheduled time contained in the notice of the meeting at which such executive session is to take place and that such person may require that such discussion be held at an open meeting. In cases of extraordinary emergency, written notice to such person shall not be required; however, the board shall give such notice as it deems appropriate and circumstances permit;

2. - 3. …

4. investigative proceedings regarding allegations of misconduct;

5. cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude; or

6. any other matters now provided for or as may be provided for by the Legislature.

B. Limitations on Executive Sessions. No final or binding action shall be taken during an executive session; nor may an executive session be called for discussion of the appointment of a person to a public body or, except as provided in R.S. 39:1593(C)(2)(c), for discussing the award of a public contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 11:1181 (December 1985), LR 19:55 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1027 (July 2001), LR 30:1711 (August 2004), LR 44:

## Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering or Land Surveying

**§901. Engineer Intern Certification**

A. The requirements for certification as an engineer intern under the several alternatives provided in the licensure law are as follows.

1. …

2. Graduates with Advanced Engineering Degree. The applicant shall be a graduate of a non-accredited engineering or related science or engineering technology curriculum of four years or more approved by the board as being of satisfactory standing, who has obtained an engineering graduate degree in an engineering discipline or sub-discipline from a college or university having an undergraduate accredited engineering curriculum in the same discipline or sub-discipline, approved by the board as being of satisfactory standing and in accordance with §1105, who is of good character and reputation, who has passed the examination required by the board in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board.

3. Other Non-Accredited Engineering Graduates. The applicant shall be a graduate of a non-accredited engineering curriculum of four years or more approved by the board as being of satisfactory standing, who has a specific record of four years or more of verifiable progressive experience obtained subsequent to graduation, on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the examination required by the board in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, and having a personal knowledge of his/her engineering experience, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1027 (July 2001), LR 30:1711(August 2004), LR 32:1618 (September 2006), LR 37:2412 (August 2011), LR 38:2563 (October 2012), LR 43:343 (February 2017), LR 44:

**§903. Professional Engineer Licensure**

A. The requirements for licensure as a professional engineer under the alternatives provided in the licensure law are as follows:

1. the applicant for licensure as a professional engineer shall be an engineer intern, or an individual who meets the qualifications to be an engineer intern, who has a verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience qualifications to be an engineer intern on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the examination(s) required by the board in the principles and practice of engineering in the discipline(s) of engineering in which the applicant seeks to be listed, who was recommended for licensure by five personal references (at least three of whom must be professional engineers who have personal knowledge of the applicant's engineering experience and character and ability), who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

2. the applicant for licensure as a professional engineer shall be an individual who holds a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia, in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional engineer by the board.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:1619 (September 2006), LR 37:2412 (August 2011), LR 38:2564 (October 2012), LR 39:1060 (April 2013), LR 39:2801 (October 2013), LR 43:538 (March 2017), LR 43:1419 (July 2017), LR 44:

**§905. Temporary Permit to Practice Engineering**

A. A person who is not a resident of and has no established place of business in Louisiana may be granted a temporary permit to practice or offer to practice engineering in Louisiana when such practice does not exceed 120 consecutive days in any calendar year, provided such person is licensed to practice engineering in their own state, territory, or possession of the United States, or the District of Columbia, in which the requirements and the qualifications for obtaining a license are not lower than those specified in the licensure law, and provided further that before beginning such temporary practice in Louisiana, the person shall have applied to the board, paid the prescribed fee, and received a temporary permit, and upon the conclusion of such work they shall advise the board as to the period of time that they have practiced in Louisiana under such temporary permit.

B. A military-trained individual or military spouse may be granted a written temporary permit to practice engineering for the period from the time the individual has applied to the board for licensure pursuant to §903.B until either the license has been granted or notice of denial of licensure has been issued, provided such individual holds a current, valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S. 37:693(B)(2) and §903.A, and provided further that before beginning such temporary practice in Louisiana, the individual shall have applied to the board, paid the prescribed fee, and received a temporary permit, and upon the conclusion of such work, he/she shall advise the board as to the period of time that he/she has practiced in Louisiana under such temporary permit.

C. - E. …

F. The fee for a temporary permit for an individual shall be twice the fee paid by an applicant applying for licensure as a professional engineer pursuant to §903.A.2. The fee for a temporary permit for a firm shall be twice the fee paid by an applicant applying for licensure as a professional engineering firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 16:773 (September 1990), LR 19:56 (January 1993), LR 22:286 (April 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 37:2412 (August 2011), LR 39:2802 (October 2013), LR 44:

**§907. Land Surveyor Intern Certification**

A. The requirements for certification as a land surveyor intern under the two alternatives provided in the licensure law are as follows:

1. the applicant for certification as a land surveyor intern shall be a graduate holding a baccalaureate degree from a curriculum of four years or more who has completed at least 30 semester credit hours, or the equivalent, in land surveying, mapping, and real property courses approved by the board, who is of good character and reputation, who has passed the examination required by the board in the fundamentals of land surveying, who was recommended for certification by a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as a land surveyor intern by the board; or

2. the applicant for certification as a land surveyor intern shall be an individual certified by the board as a land surveyor in training or a land surveyor intern on or before January 1, 1995.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:90 (February 1984), LR 16:773 (September 1990), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:1619 (September 2006), LR 37:2413 (August 2011), LR 38:2564 (October 2012), LR 44:

**§909. Professional Land Surveyor Licensure**

A. The requirements for licensure as a professional land surveyor under the two alternatives provided in the licensure law are as follows:

1. the applicant for licensure as a professional land surveyor shall be a land surveyor intern, or an individual who meets the qualifications to be a land surveyor intern, who is of good character and reputation, who has a verifiable

record of four years or more of combined office and field experience in land surveying including two years or more of progressive experience on land surveying projects under the supervision of a professional land surveyor, who has passed the oral examination required by the board, who has passed the examinations required by the board in the principles and practice of land surveying and the Louisiana laws of land surveying, who was recommended for licensure by five personal references (at least three of whom must be professional land surveyors who have personal knowledge of the applicant's land surveying experience and character and ability), who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

2. the applicant for licensure as a professional land surveyor shall be an individual who holds a valid license to engage in the practice of land surveying issued to him/her by the proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with the provisions of the licensure law and which were of a standard not lower than that specified in the applicable licensure law in effect in Louisiana at the time such license was issued, who is of good character and reputation, who has passed the examination required by the board in the Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and if the state, territory, or possession, or the District of Columbia in which he/she is licensed will accept the licenses issued by the board on a comity basis, and who was duly licensed as a professional land surveyor by the board.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:352 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 32:1619 (September 2006), LR 35:1909 (September 2009), LR 37:2413 (August 2011), LR 38:2564 (October 2012), LR 39:2802 (October 2013), LR 43:539 (March 2017), LR 44:

**§911. Temporary Permit to Practice Land Surveying**

A. A military-trained individual or military spouse may be granted a written temporary permit to practice land surveying for the period from the time the individual has applied to the board for licensure pursuant to §909.B until either the license has been granted or notice of denial of licensure has been issued, provided such individual holds a current, valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S. 37:693(B)(4) and §909.A, and provided further that before beginning such temporary practice in Louisiana, the individual shall have applied to the board, paid the prescribed fee, and received a temporary permit, and upon the conclusion of such work, he/she shall advise the board as to the period of time that he/she has practiced in Louisiana under such temporary permit.

B. - D. …

E. The fee for a temporary permit shall be twice the fee paid by an applicant applying for licensure as a professional land surveyor pursuant to §909.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 39:2803 (October 2013), LR 44:

**Chapter 11. Curricula**

**§1101. Approved Curricula**

A. The board shall determine which curricula are to be recognized under the provisions of the licensure law as approved curricula for the certification and licensure of individuals as engineer interns, professional engineers, land surveyor interns, and professional land surveyors.

B. In general, the board will recognize as approved all accredited engineering curricula of four years or more. The board may recognize as approved an engineering curriculum that was not accredited at the time of the applicant's graduation, but which became accredited within the following two years.

C. …

D. In general, the board will recognize as approved all accredited land surveying curricula of four years or more. The board may recognize as approved a land surveying curriculum that was not accredited at the time of the applicant's graduation, but which became accredited within the following two years.

E. Based on an investigation by a committee of the board, the board may, by a majority vote at a regular meeting, recognize as an approved curriculum a non-accredited land surveying curriculum of four years or more from a school of satisfactory standing that does not meet the specifications of §1101.D. The board shall keep a record of the land surveying curricula thus approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 10:805 (October 1984), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 44:

**§1103. Other Engineering Curricula**

A. To qualify for certification as an engineer intern pursuant to §901.A.3, a graduate of a non-accredited engineering curriculum must present evidence of experience of such quality and extent that the board believes that the applicant has obtained engineering knowledge and skills at least equivalent to that obtained by education in an accredited engineering curriculum.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended 7:647 (December 1981), LR 10:805 (October 1984), LR

19:907 (July 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 44:

## Chapter 13. Examinations

### §1301. General

A.1. Only individuals who have received permission from NCEES will be allowed to take the fundamentals of engineering and fundamentals of land surveying examinations, and all applications for these examinations must be timely filed with NCEES.

A.2. - D. …

E. Any applicant found to have engaged in conduct which subverts or attempts to subvert the examination process may, at the discretion of the board, have his/her scores on the examination withheld and/or declared invalid, have disciplinary action taken as described in R.S. 37:698-700 and/or be subject to the imposition of other appropriate sanctions.

F. The board may require applicants to demonstrate their knowledge of the laws and rules of the board, and the English language. Applicants must be able to speak and write the English language. Proficiency in English may be evidenced by possession of a baccalaureate degree taught exclusively in English, or by passage of both the TOEFL (test of English as a foreign language) paper-based exam with a score of 550 or better (213 or better on the TOEFL computer-based exam) and the TSE (test of spoken English) exam with a score of 45 or better. Applicants requesting a waiver from the TOEFL and/or TSE requirements must submit a written request and supporting reasoning to the board. A waiver from the TOEFL and/or TSE requirements may be granted by the board upon receipt of one of the following:

1. - 2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1714 (August 2004), LR 35:1909 (September 2009), LR 37:2413 (August 2011), repromulgated 37:2752 (September 2011), amended LR 38:2565 (October 2012), LR 39:2282 (August 2013), LR 42:1104 (July 2016), LR 44:

### §1305. Approval to Take the Examination in the Principles and Practice of Engineering

A. An applicant who meets all of the other requirements for licensure as a professional engineer may be permitted to take the examination in the principles and practice of engineering in the discipline(s) of engineering in which he/she seeks to be listed.

B. An applicant who has already been duly certified as an engineer intern by the board, but has not yet met the experience requirement for licensure as a professional engineer, may be permitted to take the examination in the principles and practice of engineering in the discipline(s) of engineering in which he/she seeks to be listed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 11:950 (October 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1715 (August 2004), LR 40:1390 (July 2014), LR 44:

### §1309. Approval to Take the Examinations in the Principles and Practice of Land Surveying and in the Louisiana Laws of Land Surveying

A. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1715 (August 2004), LR 44:

### §1311. Examination for Record Purposes

A. The board provides the opportunity for professional engineers who were previously licensed in Louisiana to take the examination in the principles and practice of engineering in the discipline(s) of engineering in which they seek to be listed without affecting their current licensure status with the board. These examinations are offered at times and places designated by the board or NCEES. Each applicant will be charged a fee for this service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:114 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1715 (August 2004), LR 44:

### §1313. Examination Results

A. The board or NCEES will specify the minimum passing score for all examinations for certification or licensure of applicants.

B. Applicants will be informed only as to whether they passed or failed an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:114 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 39:2282 (August 2013), LR 44:

## Chapter 15. Experience

### §1501. Recognition of Experience

A. The board will not recognize experience acquired by an applicant in violation of the licensure law of any state, territory, or possession of the United States, or the District of Columbia.

B. - B.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 36:1034 (May 2010), LR 44:

**§1503. Graduate-Level Engineering Degree**

A. An applicant who has obtained a master's degree in engineering which has followed a baccalaureate degree in engineering from an accredited engineering curriculum may use the master's degree for credit for one year's experience. An applicant who has obtained an earned doctoral degree in engineering which has followed a baccalaureate degree in engineering from an accredited engineering curriculum may use the doctoral degree for credit for two years' experience. The two-year's credit for the doctoral degree includes the one year for a master's degree.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:112 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 41:1122 (June 2015), LR 44:

**§1505. Work Experience**

A. No applicant will be allowed credit of more than one year of experience for both work and education during any consecutive 12-month period.

B. Two years of the required engineering work experience shall be obtained in a state, territory, or possession of the United States, or the District of Columbia. However, the board may allow substitution of two years of foreign engineering work experience provided that the experience is obtained under the supervision of a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia.

C. Two years of the required land surveying work experience shall be obtained in a state, territory, or possession of the United States, or the District of Columbia. However, the board may allow substitution of two years of foreign land surveying work experience provided that the experience is obtained under the supervision of a professional land surveyor holding a valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1716 (August 2004), LR 32:1620 (September 2006), LR 44:

**§1507. Engineering Experience Subsequent to Degree**

A. Except as otherwise provided in Subsection B, only experience obtained subsequent to completion of a degree specified in the requirements for qualifying as an engineer intern will be considered as engineering experience.

B. Up to one year of engineering experience may be obtained prior to graduation, if obtained through a college or university-sponsored co-op program as part of an accredited engineering curriculum approved by the board, and only after completion of the first half of the curriculum. If the co-op program work is full-time work, the amount of credit given is equal to the time worked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 7:647 (December 1981), LR 11:362 (April 1985), LR 27:1031 (July 2001), LR 30:1716 (August 2004), LR 44:

**§1511. Experience from Faculty Engineering Research and Design Projects**

A. Experience gained in engineering research and design projects by members of an engineering faculty in an accredited engineering curriculum is creditable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), amended LR 30:1716 (August 2004), LR 44:

**§1513. Teaching Experience**

A. Engineering. Teaching experience must be in engineering or engineering-related courses at an advanced level in an accredited engineering curriculum.

B. Land Surveying. Teaching experience must be in land surveying or land surveying-related courses at an advanced level in an accredited land surveying curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:1716 (August 2004), LR 44:

**§1517. Knowledge Required**

A. Engineering. Experience should include demonstration of a knowledge of engineering mathematics, physical and applied science, properties of materials, and the fundamental principles of engineering design.

B. Land Surveying. Experience should include demonstration of a knowledge of surveying mathematics, theory of measurements, application of legal principles of boundary surveying, and the fundamental principles of land surveying.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:1716 (August 2004), LR 44:

**§1519. Applied Experience**

A. Engineering. Experience should include demonstration of the application of engineering principles in the practical solution of engineering problems.

B. Land Surveying

1. Experience should include demonstration of the application of land surveying principles in the practical execution of land surveying tasks.

2. A substantial portion of the experience must be spent in charge of work related to property conveyance and/or boundary line determination.

3. Adequate experience in the technical field aspects of land surveying must be demonstrated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:1716 (August 2004), LR 44:

**§1521. Experience Acquired in the United States Military**

A. Engineering. Engineering experience gained in the United State military must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. Normally, it would be expected that the experience gained in the United States military is through service in an engineering or engineering-related group.

B. Land Surveying. Land surveying experience gained in the United States military must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. Normally, it would be expected that the experience gained in the United States military is through services in a land surveying group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:1717 (August 2004), LR 44:

**§1523. Sales Experience**

A. For sales experience to be creditable as engineering experience, it must be demonstrated that engineering principles were required and applied in gaining the experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:1717 (August 2004), LR 44:

**§1525. Construction Experience**

A. For construction experience to be creditable as engineering experience, it must be demonstrated that engineering principles were required and applied in gaining the experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1032 (July 2001), amended LR 30:1717 (August 2004), LR 44:

## Chapter 17. Applications and Fees

**§1701. Applications**

A. Applications for certification as an engineer intern or land surveyor intern shall be completed on the most current forms developed by the board. The application shall contain statements showing the applicant's qualifications, and a recommendation for certification by a professional engineer or professional land surveyor holding a valid license to engage in the practice of engineering or land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, as appropriate. Furthermore, applications for certification as an engineer intern pursuant to §901.A.3 submitted by graduates of a non-accredited engineering curriculum shall also contain a recommendation for certification by a professional engineer (holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia) having personal knowledge of the applicant's engineering experience.

B. Applications for licensure as a professional engineer or professional land surveyor shall be completed on the most current forms developed by the board. The application shall contain statements showing the applicant's qualifications, and the names and addresses of five personal references who recommend the applicant for licensure. None of the five personal references can be an immediate family member or business associate of the applicant. For purposes of this §1701.B, immediate family member is defined as a spouse, child, spouse of a child, sibling, spouse of a sibling, sibling of a spouse, parent, parent of a spouse, stepparent or stepchild. For purposes of this §1701.B, business associate is defined as a subordinate of the applicant, or a consultant or contractor who provides goods or services to the applicant or to a business, entity or agency in which the applicant is an owner, member, officer, director, trustee, partner, principal, manager, employee, associate, consultant or contractor. Three or more of the five personal references furnished by an applicant for licensure as a professional engineer shall be professional engineers holding valid licenses to engage in the practice of engineering issued to them by proper authority of a state, territory, or possession of the United States, or the District of Columbia. Three or more of the five personal references furnished by an applicant for licensure as a professional land surveyor shall be professional land surveyors holding valid licenses to engage in the practice of land surveying issued to them by proper authority of a state, territory, or possession of the United States, or the District of Columbia. Applicants for licensure as a professional engineer or professional land surveyor must also successfully complete the board's Louisiana laws and rules quiz and Louisiana ethics and professionalism quiz prior to licensure. Additionally, applicants for licensure as a professional land surveyor must successfully complete the board's Louisiana standards of practice for boundary surveys quiz prior to licensure.

C. - D. …

E. An application for certification or licensure may be considered incomplete by the board. The applicant may be denied admission to an examination until the information submitted in the application has been investigated and replies have been received from references. The board may require additional information and documents it considers necessary for the proper evaluation of an application.

F. …

G. Applicant files may be destroyed at the discretion of the executive director no earlier than the end of the applicable retention period set forth in the board's records retention schedule.

H. Applications for licensure of an engineering firm and/or land surveying firm shall be completed on the most current forms developed by the board and shall contain the names, license numbers, and signatures of all professional engineers and/or professional land surveyors designated as supervising professionals in accordance with Chapter 23 (Firms). The name and signature of an officer of the firm duly authorized to make certifications on behalf of the firm must appear in the specified location of the form. If the applicant is a corporation, a copy of the corporation's Louisiana certificate of incorporation (domestic) or certificate of authority (foreign) must accompany the application. If the applicant is a limited liability company, a copy of the company's Louisiana certificate of organization (domestic) or certificate of authority (foreign) must accompany the application. The board will license firms that are corporations using only the name as reflected on the corporation's Louisiana certificate of authority or certificate of incorporation. The board will license firms that are limited liability companies using only the name as reflected on the company's Louisiana certificate of authority or certificate of organization. Designated supervising professionals for the firm must also successfully complete the board's Louisiana laws and rules quiz and Louisiana ethics and professionalism quiz prior to licensure of the firm. Additionally, designated supervising professionals for a land surveying firm must successfully complete the board's Louisiana standards of practice for boundary surveys quiz prior to licensure of the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1032 (July 2001), LR 30:1717 (August 2004), LR 37:2414 (August 2011), LR 38:2565 (October 2012), LR 39:2283 (August 2013), LR 41:2690 (December 2015), LR 44:

**§1703. Fees**

A. Application fees, renewal fees and all other fees shall be established by the board by a majority vote at a regular meeting. The fees so established shall be in accordance with the limits specified in the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:503 (December 1977), amended LR 5:365 (November 1979), LR 7:646 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1033 (July 2001), LR 30:1718 (August 2004), LR 44:

## Chapter 19. Disciplines of Engineering

**§1901. Disciplines**

A. Professional engineers will be issued licenses by the board as a professional engineer, and the board shall list a professional engineer in one or more of the disciplines of engineering approved by NCEES based on such individual having passed the examination in the principles and practice of engineering in such discipline(s).

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:118 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1033 (July 2001), LR 30:1718 (August 2004), LR 39:1061 (April 2013), LR 43:1420 (July 2017), LR 44:

## Chapter 21. Certificates of Licensure and Certification of Individuals or Firms

**§2101. Expiration and Renewals**

A. Licenses and certificates of individuals and firms shall expire on the date specified on the applicable biennial renewal form and/or as shown on the board's records and shall become invalid after that date unless renewed within 120 days. After that period, the licensee or certificate holder may apply to the board to reactivate his/her expired license or certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 6:417 (June 1983), LR 11:363 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1035 (July 2001), LR 30:1718 (August 2004), LR 44:

**§2103. Licensure and Certification Status**

A. The board has established the following licensure statuses for licensees.

*Active Status*—the licensure status which exists for a licensee of the board who has complied with all the licensure and licensure renewal requirements of the board and who has elected to be in this status on his/her biennial licensure renewal form.

*Expired Status*—the licensure status which exists for a licensee of the board who has failed to properly renew licensure as required in R.S. 37:697. A licensee in an expired status cannot practice or offer to practice engineering or land surveying in Louisiana.

*Inactive Status*—the licensure status which exists for an individual licensee of the board who has chosen not to practice or offer to practice engineering and/or land surveying in Louisiana and who has elected to be in this status on his/her biennial licensure renewal form. A licensee in an inactive status can represent himself/herself to the public as a P.E. inactive or a P.L.S. inactive, as applicable, but cannot otherwise practice or offer to practice engineering and/or land surveying in Louisiana.

*Retired Status*—the licensure status which exists for an individual licensee of the board who has chosen not to practice or offer to practice engineering and/or land surveying in Louisiana and who has elected to be in this status on his/her biennial licensure renewal form. To qualify for the retired status, the licensee must be at least 70 years of age or have been a licensee of the board for at least 35 years. Unless the licensee is granted a waiver by the board, the renewal fee for the retired status shall be one-half of the current renewal fee for the *active status.* A licensee qualified for the retired status may be granted a waiver of this renewal

fee if the licensee is at least 70 years of age, has been a licensee of the board for at least 35 years continuously, has never been subject to disciplinary action in any jurisdiction, has never committed any of the offenses described in R.S. 37:698(A)(3), (4) or (5), and is of good character and reputation. A licensee in a retired status can represent himself/herself to the public as a P.E. retired or a P.L.S. retired, as applicable, but cannot otherwise practice or offer to practice engineering and/or land surveying in Louisiana.

B. The board has established the following certification statuses for certificate holders:

*Active Status*—the certification status which exists for a certificate holder of the board who has complied with all the certification and certification renewal requirements of the board and who has elected to be in this status on his/her biennial certification renewal form.

*Expired Status*—the certification status which exists for a certificate holder of the board who has failed to properly renew certification as required in R.S. 37:697.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2151 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1035 (July 2001), LR 30:1719 (August 2004), LR 36:1034 (May 2010), LR 44:

## Chapter 23. Firms

### §2301. General

A. The following rules with regard to firms shall apply equally to domestic or foreign firms, partnerships, associations, cooperatives, ventures, corporations, limited liability companies, limited liability partnerships, and any other entities, unless otherwise provided:

1. use of the term *professional services* in this Chapter will refer to either engineering services or land surveying services; and

2. …

B. A firm must be licensed with the board before it may provide or offer to provide professional services in Louisiana.

1. A firm which has in its name the words *engineer*, *engineering*, *land surveyor*, *land surveying* or any modification or derivative thereof shall be construed to be offering to provide professional services and therefore must be licensed with the board before doing business in Louisiana, unless it has in its name modifying or explanatory words which would, in their ordinary meaning, negate the inference of the practice of engineering or land surveying.

2. A firm may provide or offer to provide both engineering and land surveying services in Louisiana; provided, however, that the firm must be licensed separately as an engineering firm and as a land surveying firm, and the requirements of this Chapter will apply separately to providing or offering to provide engineering services and land surveying services.

3. A firm may provide or offer to provide both professional services and the services of other related professions in Louisiana, such as architecture and landscape architecture; provided, however, the firm must be licensed under and comply with the provisions of the licensure law and this Chapter.

C. Unless otherwise provided, sole proprietorships which are not legal entities and which bear the full name of the owner who is a licensed professional are exempt from the application of this Chapter. Such sole proprietorships are not required to be licensed as engineering or land surveying firms with the board. Sole proprietorships which are not legal entities and which do not bear the full name of the owner who is a licensed professional must be licensed with the board as an engineering or land surveying firm and must comply with all the provisions of this Chapter.

D. Joint ventures that provide or offer to provide professional services in Louisiana will not be required to be licensed as separate entities. Nevertheless, any firm (including those sole proprietorships otherwise excluded under §2301.C) that provides or offers to provide professional services in conjunction with its participation in a joint venture can do so only if it complies with the provisions of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:116 (May 1979), LR 8:191 (April 1982), LR 16:774 (September 1990), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1035 (July 2001), LR 30:1719 (August 2004), LR 37:2414 (August 2011), LR 44:

### §2305. Supervising Professional

A.1. - A.3.a. …

b. institution of and adherence to policies of the firm that are in accordance with the licensure law and the rules of the board; and

c. ensuring that all professional services provided by the firm are performed by or under the responsible charge of licensed professionals.

B. The supervising professional of a firm which participates in a joint venture shall be responsible for assuring that all professional services performed by the joint venture are rendered in conformity with the provisions of these rules.

C. Nothing herein shall prohibit a supervising professional from also being in responsible charge of professional services provided by the firm.

D. A failure to comply with any of the provisions of this Chapter may subject both the licensed firm and the supervising professional to disciplinary action by the board.

E. Compliance with this Section will not be met by a contractual relationship between the firm and a licensed professional or a firm of licensed professionals in which such licensed professional or firm of licensed professionals is available on a consultative basis. Nor will it be considered compliance if a licensed professional is related to the firm solely in a nominal or inactive capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR

33:2789 (December 2007), LR 35:2856 (December 2009), LR 38:1418 (June, 2012), LR 44:

**§2307. Professional Identification**

A. Letterhead, business cards, advertisements, promotional materials, websites and other identifying items issued or used by firms in Louisiana shall reflect the exact firm name contained on the firm's certificate of licensure issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:116 (May 1979), amended LR 8:191 (April 1982), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1720 (August 2004), LR 33:2789 (December 2007), LR 44:

**§2309. Enforcement**

A. In the event that a firm shall fail to comply with these rules, the board may take whatever action is necessary against such firm to require compliance or to enjoin further practice or offers to practice engineering or land surveying.

B. Firms are subject to all disciplinary and enforcement provisions provided for in the licensure law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 3:502 (December 1977), amended LR 5:116 (May 1979), LR 8:191 (April 1982), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1720 (August 2004), LR 44:

**Chapter 25. Professional Conduct**

**§2501. Scope; Knowledge; Definition of Licensee**

A. In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following rules of professional conduct shall be binding on every licensee. These rules of professional conduct deal primarily with the relationship between licensees and the public and should not be construed as a substitute for codes of ethics of the various professional and technical societies.

B. All licensees are charged with having knowledge of the licensure law and the rules of the board and shall be deemed to be familiar with their provisions and to understand them.

C. For purposes of this Chapter only, the term *licensee* shall mean any professional engineer, professional land surveyor, engineer intern, land surveyor intern, or firm holding a license or certificate issued by the board.

D. A licensee possessing personal knowledge of a violation of the licensure law or the rules of the board shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require.

E. Licensees shall timely respond to all inquiries and correspondence from the board and shall timely claim correspondence sent to them from the board via the U.S. Postal Service or other delivery service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:299 (August 1978), amended LR 7:648 (December 1981), LR 16:776 (September 1990), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1720 (August 2004), LR 44:

**§2503. Licensees**

A. Licensees shall hold paramount the life, health, property and welfare of the public in the performance of their professional duties.

B. Licensees shall at all times recognize that their primary obligation is to protect the life, health, property, and welfare of the public. If their professional judgment is overruled by nontechnical authority, they will clearly point out the consequences, notifying the proper authority of any observed conditions which endanger public life, health, property and welfare.

C. Licensees shall approve and seal only those documents which are safe for public life, health, property, and welfare, which are complete and accurate, which are in conformity with accepted engineering and land surveying standards or practice, and which conform to applicable laws and ordinances.

1. …

2. Except as permitted by §2701.A.3.b.ii, licensees shall not seal the work of or take the professional responsibility for any documents related to engineering or land surveying not performed by the licensee or under their responsible charge.

3. Licensees shall not accept the responsibility for, nor review, revise, sign, or seal documents when such documents are begun by persons not properly licensed; or do any other act to enable anyone to evade the requirements of the licensure law.

D. Licensees shall submit to a client only that work prepared by the licensee or under their responsible charge; however, licensees, as third parties, may complete, correct, revise, or add to the work of another licensee or other related design professional, if allowed by Louisiana law, when engaged to do so by a client, provided:

1. the client furnishes the documentation of all such work submitted to him/her by the previous licensees or other related design professionals;

2. …

3. all work completed, corrected, revised, or added to shall contain a notation describing the work done by the licensee now in responsible charge, shall have the seal and signature of the licensee affixed thereto, shall contain the date of execution, and shall become the responsibility of the licensee.

E. Licensees shall be objective and truthful in all professional reports, statements or testimony. Licensees shall include all relevant and pertinent information in such reports, statements or testimony.

F. …

G. Licensees shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's

name, by disclosing the identities of any party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the instant matter.

H. Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another licensee, nor indiscriminately criticize another licensee's work in public. If the licensee believes that another licensee is guilty of misconduct or illegal practice, such information shall be presented to the board in a manner consistent with the requirement of those rules for reporting personal knowledge of rule or licensure law violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 11:950 (October 1985), LR 16:776 (September 1990), LR 17:273 (March 1991), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004), LR 44:

**§2505. Services**

A. Licensees shall provide services only in the area of their competence.

B. …

C. Licensees shall not affix their signatures or seals to any documents dealing with subject matters in which they lack competence, nor to any such document not prepared by them or under their responsible charge. Responsible charge requires a licensee to have client contact, provide internal and external financial control, oversee training of subordinates, and exercise control and supervision overall job requirements to include research, planning, design, field supervision and work product review. A licensee shall not contract with a non-licensed individual to provide these professional services. Other types of research, such as land title searches and material testing, may be contracted to a non-licensed individual, provided the licensee reviews the work. Licensees may affix their seal, signature and date to documents depicting the work of two or more licensees or other related design professionals provided that a note under the seal designates the specific subject matter for which each is responsible.

D. Licensees may accept an assignment outside of their areas of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by other licensees, in which case they may then seal, sign and date the documents for the whole project.

E. In the event a question arises as to the competence of a licensee in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board, either upon request of the licensee or on its own volition, may require the licensee to take an appropriate examination or quiz or submit to an appropriate interview.

F. Firms may offer and/or provide a combination of engineering and construction services in connection with a design-build project in Louisiana without obtaining a firm license from the board, provided that:

1. prior to the execution of the contract for the project, the firm obtains an authorization certificate from the board by filing, on a form approved by the board, a written disclosure on which it shall designate a professional engineer (professional of record) licensed in Louisiana to be in responsible charge of all engineering services offered and/or provided by the firm for such project;

2. - 3. …

4. in the event such professional of record's services terminate with respect to the project or his/her role in the project otherwise changes, then within five business days:

a. …

b. the firm shall file with the board a new written disclosure designating a new professional of record employed by the firm and licensed in Louisiana to be in responsible charge of all engineering services offered and/or provided by the firm for such project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004), LR 32:1620 (September 2006), LR 33:2789 (December 2007), LR 35:2856 (December 2009), LR 44:

**§2507. Conflicts of Interest**

A. - C. …

D. Licensees shall not solicit or accept, directly or indirectly, benefits of any substantial nature or significant gratuity, from any supplier of materials or equipment, or from contractors, their agents, servants or employees or from any other party dealing with the client or employer of the licensee in connection with any project on which the licensee is performing or has contracted to perform professional services.

E. When in public service as a member, advisor or employee of a governmental body or agency, or under contract to provide consultation, advice, technical reviews and recommendations to a governmental body or agency, licensees shall not participate in considerations or actions with respect to professional services provided by them or their organization to that governmental body or agency or to any other person.

F. Licensees shall not solicit nor accept professional services from a governmental body or agency of which the licensee or a principal, officer or employee of the licensee's firm serves as a member, employee, consultant, contractor or representative, except upon public disclosure of all pertinent facts and circumstances and consent of all parties.

G. Licensees shall not attempt to supplant another licensee in a particular engagement after becoming aware that the other has been selected for the engagement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1038 (July 2001), LR 30:1722 (August 2004), LR 44:

**§2509. Improper Solicitation**

A. …

B. Licensees shall not falsify or permit misrepresentation or exaggeration of:

1. the licensee's or any associate's academic or professional qualifications;

2. the licensee's degree of responsibility in or for the subject matter of prior work; or

3. pertinent facts concerning employers, employees, associates or joint ventures, of the licensee's or his/her firm's past accomplishments.

C. - C.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1038 (July 2001), LR 30:1722 (August 2004), LR 44:

**§2511. Conduct of Advertising**

A. Licensees shall not make exaggerated, misleading, deceptive or false statements or claims about professional qualifications, experience or performance in brochures, correspondence, listings, websites, or other public communications.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1038 (July 2001), amended LR 30:1722 (August 2004), LR 44:

**Chapter 27. Use of Seals**

**§2701. Seal and Signature**

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. Seal Possession

a. …

b. Firms are not authorized to possess or use seals.

c. In the case of a temporary permit issued to a licensee of another state, territory, or possession of the United States, or the District of Columbia, 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 Design and Signature Requirements

a. The design of the seal shall have the following minimum information:

i. "State of Louisiana";

ii. - iii. …

iv. "Professional Engineer" or "Professional Engineer in _____ Engineering," or "Professional Land Surveyor."

Seals issued prior to promulgation of these rules may use the word "registered" in lieu of "licensed". If a seal is replaced, the new seal shall use the word "licensed" in lieu of "registered".

b. - d. …

e. Computer-generated seals of the same design and size may be used.

f. …

* * *

3. 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 license number of said licensee, if it deems this necessary, and issue another license number to the licensee.

b. Responsible Charge

i. Documents will be deemed to have been prepared under the responsible charge of a licensee only when:

(a). the client or any public or governmental agency requesting preparation of such documents makes the request directly to the licensee or the licensee's employee as long as the employee works in the licensee's place(s) of business;

(b). the licensee supervises the initial preparation of the documents and has continued input into their preparation prior to their completion;

(c). the licensee reviews the final documents; and

(d). the licensee has the authority to and does make any necessary and appropriate changes to the final documents:

(i). if the documents are prepared outside the licensee's office, the licensee shall maintain all evidence of the licensee's responsible charge including correspondence, time records, check prints, telephone logs, site visit logs, research done for project, calculations, changes, and all written agreements with any persons preparing the documents outside of the licensee's office;

(ii). a licensee failing to maintain documentation of the items set forth above, when such are applicable, shall be considered to be in violation of R.S. 37:698(A)(6), and the licensee shall be subject to disciplinary action as set forth in the licensure law.

ii. No licensee shall affix his/her seal or signature to documents developed by others not under his/her responsible charge, except:

(a). - (d). …

* * *

iii. No licensee shall affix his/her seal, signature or date to documents having titles or identities excluding the licensee's name unless:

(a). such documents were indeed developed by the licensee or under the licensee's responsible charge;

(b). - (c). …

4. Seal Use

a. Completed Work

i. Professional engineers shall affix their seal, sign their name, and place the date of execution on all engineering documents that have been issued by them to a client or any public or governmental agency as completed work.

(a). In the case of an individual who has been granted a temporary permit to practice engineering in Louisiana, the individual shall affix the seal from his/her jurisdiction of licensure, his/her signature, the date of execution, and his/her Louisiana temporary permit number to the completed work.

ii. Professional land surveyors shall affix their seal, sign their name, and place the effective date on all land surveying documents that have been issued by them to a client or any public or governmental agency as completed work. For purposes of this §2701.A.4.a.ii, *effective date* is defined as the date the professional land surveyor certifies that the land surveying document represents his/her work.

iii. Drawings and Plats

(a). In the case of multiple sealings, the first sheet or title page of each document shall be sealed, signed and dated by the licensee(s) in responsible charge of the whole project. In addition, each other sheet shall be sealed, signed and dated by the licensee(s) in responsible charge of the work on that sheet.

iv. Specifications, Reports, Design Calculations and Information

(a). In the case of specifications, reports, design calculations and information of multiple pages, the first sheet or title page of each document shall be sealed, signed and dated by the licensee(s) in responsible charge of the whole project.

a.v. - b.ii. …

c. Exempt Work

i. No seal or signature shall be required in any of the following situations:

(a). on any sewage facility project in which the estimated number of gallons of sewage affected does not exceed 3,000 per day, as calculated by the governmental body or agency reviewing the project;

(b). on any water facility project in which the estimated number of gallons of water affected does not exceed 3,000 per day, as calculated by the governmental body or agency reviewing the project; provided that such project does not cause a change in treatment, chemical addition, or any other process affecting either the quality or quantity of water being produced;

(c). on any project for the construction of individual or private water wells;

(d). on any project involving both water and sewage facilities in which the estimated number of gallons of water affected does not exceed 3,000 per day and the estimated number of gallons of sewage affected does not exceed 3,000 per day, as calculated by the governmental body or agency reviewing the project; or

(e). on any project involving the in-kind replacement of water or sewage facilities in which the estimated number of gallons of water affected does not exceed 3,000 per day and the estimated number of gallons of sewage affected does not exceed 3,000 per day, as calculated by the governmental body or agency reviewing the project.

ii. …

5. Electronic Transmission

a. Documents which require a seal may be transmitted electronically provided the seal, signature and date of the licensee are transmitted in a secure mode that precludes the seal, signature and date being reproduced or modified.

b. Originally-sealed documents which no longer require a seal may be transmitted electronically but shall have the seal removed before transmitting and shall have the following inserted in lieu of the seal, signature and date:

> "This document was originally issued and sealed by (name of licensee and license number) on (date of sealing). This document should not be considered a completed work."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007), LR 34:2415 (November 2008), LR 35:1910 (September 2009), LR 38:1418 (June 2012), LR 39:1481 (June 2013), LR 42:443 (March 2016), LR 43:344 (February 2017), LR 43:540 (March 2017), LR 44:

## Chapter 29. Standards of Practice for Boundary Surveys

### §2901. Scope and Purpose

A. The following standards of practice for boundary surveying in Louisiana have been adopted to help ensure that boundary surveys are performed in accordance with acceptable procedures.

B. The purpose of these standards of practice is to safeguard life, health and property, and to promote the public welfare, by establishing technical standards of practice for every boundary survey performed in Louisiana so that professional performance can be evaluated for but not limited to research, field work, monuments, descriptions, plats and maps. If higher standards are required by clients, or by local, state and federal jurisdictions, then those standards shall govern. When a boundary survey involves certain corners or lines that are covered under the appropriate edition of the *Manual of Instructions for the Survey of the Public Lands of the United States*, then the manual's rules or instructions for these particular surveys shall apply. Every professional land surveyor performing a boundary survey in Louisiana is required to follow these standards.

C. A boundary survey in Louisiana shall only be performed by a professional land surveyor, licensed pursuant to the laws of Louisiana, or persons under his/her responsible charge. The professional land surveyor shall at all times comply with the provisions of the licensure law and the rules of the board.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:713 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1042 (July 2001), LR 30:1725 (August 2004), LR 37:2414 (August 2011), LR 44:

**§2905. Classification of Boundary Surveys**

A. Types of Boundary Surveys. Three types of boundary surveys, which relate to or define property boundaries, are regulated by these standards of practice. These are property boundary surveys, route surveys and mineral unitization surveys.

B. Presented below are classifications which define the degree of accuracy which shall be attained for boundary surveys performed in Louisiana. These classifications are based upon the purposes for which the property is being used at the time the survey is performed and any proposed developments which are disclosed to the professional land surveyor by the client. Refer to §2913 for accuracy standards for each of the following classes of boundary surveys.

1. - 4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 22:714 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1043 (July 2001), LR 30:1726 (August 2004), LR 37:2415 (August 2011), LR 44:

**§2907. Property Boundary Survey**

A. - B. …

C. Product. A property boundary survey shall result in the recovery, establishment or reestablishment of monumented corners and points of curvature and tangency. Reference monuments shall be established or reestablished when required by these standards of practice (see Subsection E, "Monuments"). In the event that no plat or map is required, the professional land surveyor shall maintain adequate records to substantiate his/her professional opinion in reestablishing boundary lines and corners on a survey. If requested by the client, a property boundary survey may also include the following:

1. - 3. …

D. Research and Investigation. Where the purpose of a property boundary survey neither requires nor includes research and investigation of servitudes, a note to that effect shall be placed upon the plat or map. However, when such research or investigation is required, the professional land surveyor shall request from the client or their agent the most recent legal description, plats or maps describing the property to be surveyed. The professional land surveyor shall then evaluate the necessity to obtain the following data based on the specific purpose of the survey:

1. - 3. …

E. Monuments. The professional land surveyor shall set monuments at all boundary or lot corners, including points of curvature and points of tangency, unless monuments already exist or cannot be set due to physical obstructions. The following guidelines apply to artificial monuments to be set.

1. All monuments set shall be composed of a durable material and shall incorporate a ferrous material to aid in locating them by magnetic locators and, if composed of a ferrous material, shall be a minimum of 1/2 inch outside diameter and a minimum of 18 inches in length unless it is physically impossible to set such a monument. If rebar rods are used as survey monuments, the minimum size shall be a #4 bar.

2. - 6. …

F. Field Procedures. All field work shall be performed in accordance with accepted modern surveying theory, practice and procedures. Any person in charge of a survey field party shall be well-trained in the technical aspects of property boundary surveying. Every professional land surveyor under whose responsible charge a property boundary survey is conducted is also required to adhere to the following.

1. All field measurement procedures shall be consistent with these standards of practice and modern surveying theory, procedures and techniques.

2. - 7. …

G. Plats and Maps. Every original plat or map of a property boundary survey should be a reproducible drawing at a suitable scale which clearly shows the results of the field work, computations, research and record information as compiled and checked. The plat or map shall be prepared in conformity with the following guidelines.

1. - 5. …

6. A statement indicating the origin of azimuths or bearings shall be shown on each plat or map. If bearings are used, the basis of the bearing shall include one or more of the following:

a. …

b. reference to the Louisiana state plane coordinate system with the appropriate zone and, when applicable, a controlling station(s) with coordinates and datum noted;

6.c. - 9.…

10. Cemeteries and burial grounds known by the professional land surveyor to be located within the premises being surveyed shall be indicated on the plat or map. However, a detailed survey of the limits of the cemetery or burial ground shall not be required unless directed by the client.

11. - 13. …

14. Each plat or map shall show the following:

a. - d. …

e. name, telephone number, mailing address and license number of the professional land surveyor and, if applicable, the firm who employs the professional land surveyor;

14.f. - 15. …

H. Descriptions. A written legal description of the surveyed tract of land shall provide information to properly locate the property on the ground and distinctly set it apart from all other lands. The following guidelines apply.

1. - 4. …

5. Every metes and bounds description may be written in at least two parts. The first part, called the "general description," shall indicate the general location of the property by naming the particular lot or block within which it is located if in a subdivision or by naming the grant or aliquot part of a rectangular section within which it is located, along with the township, range, land district and meridian (if applicable), city (if applicable), parish and state. The second part, called the "particular description," shall logically compile and incorporate calls for the following:

a. - c. …

d. the area, if stated, shall be in square feet, acres or hectares within the tolerances specified in this Chapter.

6. - 11. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 19:58 (January 1993), LR 22:714 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1043 (July 2001), LR 30:1726 (August 2004), LR 33:2790 (December 2007), LR 37:2415 (August 2011), LR 44:

**§2913. Positional Accuracy Specification and Positional Tolerances**
**[Formerly §2909]**

A. …

* * *

*Short courses in classes "A" and "B" may generate positional errors of less than 0.01 feet. A minimum course distance of 200 feet shall be used in calculating positional error.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1068 (December 1990), amended LR 22:716 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1046 (July 2001), LR 30:1729 (August 2004), LR 37:2419 (August 2011), LR 44:

## Chapter 31. Continuing Professional Development (CPD)

**§3101. Introduction**

A. This Chapter provides for a continuing professional development program to ensure that all individual licensees are informed of those technical and professional subjects necessary to safeguard life, health and property and promote the public welfare. Every individual licensee shall meet the continuing professional development requirements of this Chapter as a condition for licensure and licensure renewal.

B. The primary purpose of licensing for professional engineers and professional land surveyors is to help protect the public from unqualified or unethical practitioners. The requirement for continuing professional development is also intended to help protect the public by reinforcing the need for lifelong learning in order to stay more current with changing technology, equipment, procedures, processes, tools, and established standards. This Chapter provides flexibility in selecting among a broad range of activities that are intended to strengthen or maintain competency in technical, managerial (business) or ethical endeavors. Licensees are encouraged to select meaningful continuing professional development activities which will be of benefit in the pursuit of their chosen fields.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1046 (July 2001), LR 30:1729 (August 2004), LR 44:

**§3103. Definitions**

A. Terms used in this Chapter are defined as follows.

*Acceptable Activity*—subject matter which is technical in nature or addresses business management practices, professional ethics, quality assurance, codes or other similar topics which facilitate the licensee's professional development as a professional engineer or professional land surveyor, and/or serves to safeguard life, health and property and promote the public welfare. Any course/activity offered by a board-approved sponsor/provider will qualify as an acceptable activity. It will be the responsibility of the licensee to determine if a course/activity offered by an unapproved sponsor/provider is an acceptable activity.

*Board-Approved Sponsor/Provider*—the Louisiana Engineering Society; the Louisiana Society of Professional Surveyors; professional and technical engineering or land surveying societies; federal, state or local governmental agencies; and colleges or universities. All sponsors/providers must conduct courses which will enhance and improve a licensee's professional development as a professional engineer or professional land surveyor, and/or serve to safeguard life, health and property and promote the public welfare.

*Continuing Education Unit*—a unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of in-class time in approved continuing education courses.

*Continuing Professional Development (CPD)*—the educational process whereby a licensee engages in a continuing program to maintain, improve or expand skills and knowledge.

* * *

*Dual Licensee*—an individual who is licensed as both a professional engineer and professional land surveyor.

*Licensure Status*—

a. *active status*—a licensure status as defined in §2103;

b. *expired status*—a licensure status as defined in §2103;

c. *inactive status*—a licensure status as defined in §2103;

d. *retired status*—a licensure status as defined in §2103.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 42:1104 (July 2016), LR 44:

**§3105. Requirements**

A. During each biennial licensure renewal period beginning before January 1, 2017, every professional engineer, including those listed in two or more disciplines, is required to earn 30 PDHs in engineering-related acceptable activities. Effective January 1, 2017 and beginning with professional engineers whose biennial licensure renewal periods begin after January 1, 2017, every professional engineer, including those listed in two or more disciplines, is required to earn 15 PDHs per calendar year in engineering-related acceptable activities. Effective January 1, 2017 and beginning with professional engineers whose biennial licensure renewal periods begin after January 1, 2017, professional engineers may not earn more than 8 PDHs within a single calendar day.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one of the PDHs

shall be earned in professional ethics. Effective January 1, 2017 and beginning with professional engineers whose biennial licensure renewal periods begin after January 1, 2017, at least one of the PDHs per calendar year shall be earned in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer.

2. During each biennial licensure renewal period beginning before January 1, 2017, at least eight of the PDHs shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer who designs buildings and/or building systems in Louisiana during such period. Effective January 1, 2017 and beginning with professional engineers whose biennial licensure renewal periods begin after January 1, 2017, at least four of the PDHs per calendar year shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer who designs buildings and/or building systems in Louisiana during such calendar year.

B. During each biennial licensure renewal period beginning before January 1, 2017, every professional land surveyor is required to earn 15 PDHs in land surveying-related acceptable activities. Effective January 1, 2017 and beginning with professional land surveyors whose biennial licensure renewal periods begin after January 1, 2017, every professional land surveyor is required to earn 8 PDHs per calendar year in land surveying-related acceptable activities.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one of the PDHs shall be earned in professional ethics. Effective January 1, 2017 and beginning with professional land surveyors whose biennial licensure renewal periods begin after January 1, 2017, at least one of the PDHs per calendar year shall be earned in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional land surveyor.

2. During each biennial licensure renewal period beginning before January 1, 2017, at least two of the PDHs shall be earned in the standards of practice for boundary surveys in Louisiana. Effective January 1, 2017 and beginning with professional land surveyors whose biennial licensure renewal periods begin after January 1, 2017, at least one of the PDHs per calendar year shall be earned in the standards of practice for boundary surveys in Louisiana.

C. During each biennial licensure renewal period beginning before January 1, 2017, every dual licensee is required to earn 30 PDHs; however, at least one-third of the PDHs shall be earned separately for each profession. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, each dual licensee is required to earn 15 PDHs per calendar year; however, at least one-third of the PDHs for each calendar year shall be earned separately for each profession.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one of the PDHs shall be earned in professional ethics. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one of the PDHs per calendar year shall be earned in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer and/or professional land surveyor.

2. During each biennial licensure renewal period beginning before January 1, 2017, at least two of the PDHs shall be earned in the standards of practice for boundary surveys in Louisiana. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one of the PDHs per calendar year shall be earned in the standards of practice for boundary surveys in Louisiana.

3. During each biennial licensure renewal period beginning before January 1, 2017, at least eight of the PDHs shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer who designs buildings and/or building systems in Louisiana during such period. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, at least four of the PDHs per calendar year shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer who designs buildings and/or building systems in Louisiana during such calendar year.

D. Excess PDHs

1. Effective for biennial licensure renewal periods beginning before January 1, 2017, if a licensee exceeds his/her biennial licensure renewal period requirement of PDHs, up to a maximum of 15 PDHs may be carried forward into the subsequent biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, if a licensee exceeds his/her annual requirement of PDHs, up to a maximum of 7 PDHs may be carried forward into the subsequent calendar year.

2. Excess PDHs may include, without limitation, those earned in professional ethics, the standards of practice for boundary surveys in Louisiana, *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines.

E. Licensees will be required to verify compliance with these CPD requirements at the end of each of their biennial licensure renewal periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 37:2420 (August 2011), LR 42:1104 (July 2016), LR 44:

**§3109. Exemptions**

A. A licensee may be exempt from the CPD requirements in this Chapter for any one or more of the following reasons.

1. Effective for biennial licensure renewal periods beginning before January 1, 2017, new licensees shall be exempt from the CPD requirements prior to their first licensure renewal. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, new licensees shall be exempt from the CPD requirements during the calendar year in which they are licensed.

2. Effective for biennial licensure renewal periods beginning before January 1, 2017, licensees serving on active duty in the United States military for a period of time exceeding 180 consecutive days in a biennial licensure renewal period shall be exempt from the CPD requirements during that biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, licensees serving on active duty in the United States military for a period of time exceeding 180 consecutive days in a calendar year shall be exempt from the CPD requirements during that calendar year.

3. Effective for biennial licensure renewal periods beginning before January 1, 2017, licensees experiencing disability, serious illness, or serious injury of a nature and duration which prevent them from satisfying the CPD requirements during a biennial licensure renewal period may be granted an exemption from such requirements for said period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, licensees experiencing disability, serious illness, or serious injury of a nature and duration which prevent them from satisfying the CPD requirements during a calendar year may be granted an exemption from such requirements for said year. Supporting documentation, such as a signed letter from a physician who has treated the disability, illness or injury, is required. This documentation shall be on the letterhead of the physician, shall set forth the nature of the disability, illness or injury and the period of time under treatment by the physician, and shall contain a statement by the physician as to any limitations placed upon the licensee which impaired his/her ability to satisfy the CPD requirements. Effective for biennial licensure renewal periods beginning before January 1, 2017, this exemption may only be granted for one biennial licensure renewal period at a time. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, this exemption may only be granted for one calendar year at a time.

4. Effective for biennial licensure renewal periods beginning before January 1, 2017, licensees working outside of the United States for more than 180 days in a biennial licensure renewal period where compliance with the CPD requirements is impractical due to location, working hours, mail restrictions, etc., may be granted an exemption from such requirements for said period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, licensees working outside of the United States for more than 90 days in a calendar year where compliance with the CPD requirements is impractical due to location, working hours, mail restrictions, etc., may be granted an exemption from such requirements for said calendar year. Supporting documentation, such as a signed letter from the licensee's employer, is required. This documentation shall be on the letterhead of the employer, shall set forth both the location and the period of time in which the licensee has been working outside of the United States, and shall contain a statement by the employer as to why it was impractical for the licensee to satisfy the CPD requirements.

5. Licensees who certify their licensure status as inactive on their biennial licensure renewal form shall be exempt from the CPD requirements until their next licensure renewal. In the event such licensee subsequently elects to be reinstated to active status, he/she must meet the requirements set forth in §3121.

6. Licensees who certify their licensure status as retired on their biennial licensure renewal form shall be exempt from the CPD requirements until their next licensure renewal. In the event such licensee subsequently elects to be reinstated to active status, he/she must meet the requirements set forth in §3121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1731 (August 2004), LR 42:1105 (July 2016), LR 44:

**§3111. Determination of Credit**

A. PDHs may be earned as indicated in §3113 for the following activities:

1. successful completion of college courses, correspondence courses, continuing education courses, seminars, tutorials, and short courses, and/or by teaching/instructing these items;

2. - 4. …

5. authoring and publishing articles/papers in engineering or land surveying journals; or authoring and publishing books related to engineering or land surveying;

6. …

7. formal, documented problem preparation for NCEES or state professional engineering or land surveying exams;

A.8. - B. …

C. The board has final authority with respect to the acceptability of activities, PDH credit, PDH value for activities, and other methods of earning PDH credit. PDH credit for acceptable college or correspondence courses may be based upon course credit established by the college or school.

D. Selection of activities is the responsibility of the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1731 (August 2004), LR 37:2420 (August 2011), LR 39:1481 (June 2013), LR 42:1106 (July 2016), LR 44:

**§3113. Units**

A. - A.3. …

B. Effective for biennial licensure renewal periods beginning before January 1, 2017, PDH credit will be awarded as follows:

1. fifty contact minutes of verified attendance at an activity in accordance with §3111.A.1-2, or problem preparation for a NCEES or state professional engineering or land surveying exam in accordance with §3111.A.7 = one PDH. A maximum of 10 PDHs will be allowed per biennial licensure renewal period for problem preparation;

2. membership in an engineering or land surveying professional association or technical society in accordance with §3111.A.4 = one PDH per biennial licensure renewal period for each association or society. A maximum of three PDHs will be allowed per biennial licensure renewal period for all such memberships;

3. teaching/instructing or presenting an activity in accordance with §3111.A.1-3 = twice the PDHs allowed for attending the activity. A maximum of 30 PDHs will be allowed per biennial licensure renewal period for teaching, instructing and presenting;

4. authoring and publishing a peer reviewed (refereed) article/paper in an engineering or land surveying journal, or authoring and publishing a peer reviewed (refereed) book related to engineering or land surveying, in accordance with §3111.A.5 = 10 PDHs per biennial licensure renewal period for all such articles/papers or books;

5. authoring and publishing a non-peer reviewed (non-refereed) article/paper in an engineering or land surveying journal in accordance with §3111.A.5 = 5 PDHs per biennial licensure renewal period for all such articles/papers;

6. obtaining a patent in accordance with §3111.A.6 = 10 PDHs for each patent;

7. serving as a thesis director for a student pursuing a masters or doctoral degree in engineering in accordance with §3111.A.8 = 1 PDH per hour of thesis credit. A maximum of 10 PDHs will be allowed per biennial licensure renewal period for all such students;

8. serving on a technical committee that is assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying in accordance with §3111.A.9 = 1 PDH per 50 contact minutes of attendance at a committee meeting. A maximum of 10 PDHs will be allowed per biennial licensure renewal period for service on all of such committees.

C. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, PDH credit will be awarded as follows:

1. fifty contact minutes of verified attendance at an activity in accordance with §3111.A.1-2, or problem preparation for a NCEES or state professional engineering or land surveying exam in accordance with §3111.A.7 = one PDH. A maximum of five PDHs will be allowed per calendar year for problem preparation;

2. membership in an engineering or land surveying professional association or technical society in accordance with §3111.A.4 = one PDH per calendar year for each association or society. A maximum of two PDHs will be allowed per calendar year for all such memberships;

3. teaching/instructing or presenting an activity in accordance with §3111.A.1-3 = twice the PDHs allowed for attending the activity. A maximum of 15 PDHs will be allowed per calendar year for teaching, instructing and presenting;

4. authoring and publishing a peer reviewed (refereed) article/paper in an engineering or land surveying journal, or authoring and publishing a peer reviewed (refereed) book related to engineering or land surveying, in accordance with §3111.A.5 = 5 PDHs per calendar year for all such articles/papers or books;

5. authoring and publishing a non-peer reviewed (non-refereed) article/paper in an engineering or land surveying journal in accordance with §3111.A.5 = 3 PDHs per calendar year for all such articles/papers;

6. obtaining a patent in accordance with §3111.A.6 = 10 PDHs for each patent;

7. serving as a thesis director for a student pursuing a masters or doctoral degree in engineering in accordance with §3111.A.8 = 1 PDH per hour of thesis credit. A maximum of 5 PDHs will be allowed per calendar year for all such students;

8. serving on a technical committee that is assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying in accordance with §3111.A.9 = 1 PDH per 50 contact minutes of attendance at a committee meeting. A maximum of 5 PDHs will be allowed per calendar year for service on all of such committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1732 (August 2004), LR 37:2421 (August 2011), LR 39:1481 (June 2013), LR 42:1106 (July 2016), LR 44:

**§3115. Record Keeping**

A. All licensure renewals will require the completion and submission of a biennial licensure renewal form. By completing and submitting this form, the licensee is certifying that he/she has met all requirements for licensure renewal, including CPD requirements. This form will also contain an affirmation which must be completed if the licensee desires to change his/her licensure status.

B. Effective for biennial licensure renewal periods beginning before January 1, 2017, all licensees are required to maintain a board-approved professional development activity log outlining all PDHs claimed during a biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, all licensees are required to maintain a board-approved professional development activity log outlining all PDHs claimed during a calendar year. Licensees must complete all sections of the log and be prepared to submit the completed log and any corresponding documentation to the board upon request. Blank log forms can be obtained from the board's website.

C. ….

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016), LR 44:

**§3117. Audit and Review of Records**

A. …

B. Additionally, the board will conduct random audits in connection with impending biennial licensure renewals of up

to 30 percent of all board licensees. A license will not be renewed and will be deemed to have expired, unless the licensee provides proof of compliance with all CPD requirements and there are no discrepancies or deficiencies discovered.

C. The board will require that all licensees against whom formal disciplinary charges are pending in Louisiana provide proof of compliance with all CPD requirements.

D. Should a licensee fail to provide proof of compliance with all CPD requirements, or if discrepancies or deficiencies are discovered as the result of any of the requests/audits provided for in §3117.A-C, the licensee will be deemed not in compliance with the CPD requirements of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.l.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 35:2856 (December 2009), LR 44:

**§3119. Failure to Comply**

A. When a licensee is deemed not in compliance with the CPD requirements of the board, the licensee will be so notified and will be given 120 days to satisfy the CPD requirements. The licensee must provide documented evidence of compliance, accompanied by payment of an administrative fee of $200. Failure to comply will subject the licensee to disciplinary action as provided in the licensure law.

B. Effective for biennial licensure renewal periods beginning before January 1, 2017, PDHs earned and used to satisfy a not-in-compliance situation may not also be used to satisfy the CPD requirements for the current biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, PDHs earned and used to satisfy a not-in-compliance situation may not also be used to satisfy the CPD requirements for the current calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.l.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016), LR 44:

**§3121. CPD Reinstatement**

A. Effective for biennial licensure renewal periods beginning before January 1, 2017, to become reinstated to an active status, a licensee in an expired, inactive, or retired status must have earned all PDHs which he/she would have been required to earn if he/she had been in an active status during the previous biennial licensure renewal period as provided in §3105. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, to become reinstated to an active status, a licensee in an expired, inactive, or retired status must have earned all PDHs which he/she would have been required to earn if he/she had been in an active status during the previous two calendar years as provided in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.l.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016), LR 44:

**Chapter 33. Disciplinary and Enforcement Proceedings**

**§3301. 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 these rules and by the provisions of the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:117 (May 1979) amended LR 6:149 (April 1980), LR 7:649 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1733 (August 2004), LR 44:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on family formation, stability or autonomy.

**Poverty Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

**Provider Impact Statement**

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide the same level of service or the ability of the provider to provide the same level of service.

**Public Comments**

Interested parties are invited to submit written comments on the proposed Rule through January 10, 2018 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT**
**FOR ADMINISTRATIVE RULES**
**RULE TITLE: Housekeeping Revisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change is a housekeeping revision of existing rules under which LAPELS operates. The proposed rule change updates the language and terminology within the rules to make it clearer, more consistent, and more closely aligned with comparable provisions in the LAPELS statute and the Louisiana Administrative Procedure Act.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no impact on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment in the public and private sectors as a result of the proposed rule change.

Donna D. Sentell
Executive Director
1712#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Wildlife and Fisheries
### Office of Wildlife

Threatened and Endangered Species (LAC 76:I.317)

The Department of Wildlife and Fisheries, Office of Wildlife, does hereby give notice of its intent to update the list of threatened and endangered species in Louisiana.

**Title 76**
**WILDLIFE AND FISHERIES**
**Part I. Wildlife and Fisheries Commission and Agencies Thereunder**
**Chapter 3. Special Powers and Duties**
**Subchapter E. Louisiana Natural Heritage**
**§317. Threatened and Endangered Species**

A. The secretary of the Department of Wildlife and Fisheries hereby determines that those species designated as endangered or threatened pursuant to the Federal Endangered Species Act (ESA) of 1973 (87 stat. 884, as amended; 16 U.S.C. 1531 et seq.), are designated as such by the U.S. Fish and Wildlife Service at 50 CFR 17.11. Based upon the above determination, said species, which are enumerated below, are deemed to be endangered or threatened species under the provisions of *Louisiana Revised Statutes* title 56, chapter 8, part IV.

| | | |
|---|---|---|
| **1. Invertebrates** | | |
| Pink Mucket | *Lampsilis abrupta* | E |
| Louisiana Pearlshell | *Margaritifera hembeli* | T |
| Fat Pocketbook | *Potamilus capax* | E |
| Inflated Heelsplitter | *Potamilus inflatus* | T |
| Rabbitsfoot | *Quadrula cylindrica* | T |
| **2. Fish** | | |
| Gulf Sturgeon | *Acipenser oxyrinchus desotoi* | T |
| Pallid Sturgeon | Scaphirhynchus albus | E |
| Smalltooth Sawfish | *Pristis pectinata* | E |
| **3. Amphibians** | | |
| Dusky Gopher Frog | *Lithobates sevosus* | E |
| **4. Reptiles (including eggs)** | | |
| Loggerhead Sea Turtle | *Caretta caretta* | T |
| Green Sea Turtle | *Chelonia mydas* | T |
| Hawksbill Sea Turtle | *Eretmochelys imbricata* | E |
| Kemp's Ridley Sea Turtle | *Lepidochelys kempii* | E |
| Leatherback Sea Turtle | *Dermochelys coriacea* | E |
| Ringed Map Turtle | *Graptemys oculifera* | T |
| Gopher Tortoise | *Gopherus polyphemus* | T |
| Black Pinesnake | *Pituophis melanoleucus lodingi* | T |
| **5. Birds (including eggs)** | | |
| Whooping Crane | *Grus americana* | E |
| Piping Plover | *Charadrius melodus* | T |
| Red Knot | *Calidris canutus* rufa | T |
| Interior Least Tern | *Sternula antillarum athalassos* | E |
| Red-cockaded Woodpecker | *Picoides borealis* | E |
| **6. Mammals** | | |
| West Indian Manatee | *Trichechus manatus* | T |
| Northern Long-eared Bat | *Myotis septentrionalis* | T |
| Sperm Whale | *Physeter macrocephalus* | E |
| Florida Panther | Felis concolor coryi | E |
| **7. Plants** | | |
| American Chaffseed | *Schwalbea americana* | E |
| Earth-fruit | *Geocarpon minimum* | T |
| Louisiana Quillwort | *Isoetes louisianensis* | E |
| Pondberry | *Lindera melissifolia* | E |
| E = Endangered; T = Threatened | | |

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1904.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 15:1099 (December 1989), amended LR 18:877 (August 1992), LR 37:2438 (August 2011), LR 44:

**Family Impact Statement**

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Office of Wildlife hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

Written comments may be addressed to Amity Bass, Biologist Director, Coastal and Nongame Resources Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898, or abass@wlf.la.gov no later than 4:30 p.m., February 2, 2018.

Jack Montoucet
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Threatened and Endangered Species

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule amends the State of Louisiana's list of threatened and endangered species to make it consistent with the federal list. It adds nine species to the State of Louisiana's list of threatened and endangered species, including one mollusk (rabbitsfoot); one fish (smalltooth sawfish); one reptile (black pinesnake); one bird (red knot); one mammal (northern long-eared bat); and four plants (American chaffseed, Earth-fruit, Louisiana quillwort, and pondberry).

The proposed rule removes eight species that are rarely encountered in Louisiana from the state's list of threatened and endangered species: the American burying beetle, the Eskimo curlew, the Ivory–billed woodpecker, Bachman's warbler, the red wolf, the blue whale, the finback whale, and the sei whale.

The proposed rule amends the status of the West Indian manatee from endangered to threatened.

The proposed rule removes the Louisiana black bear from the threatened species list because the subspecies' stock has been deemed to have recovered.

The proposed rule corrects the taxonomic nomenclature of five species: the Gulf sturgeon, the pallid sturgeon, the dusky gopher frog, the interior least tern, and the sperm whale.

The proposed rule corrects the common name of *Graptemys oculifera*, the ringed map turtle.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may have a slight impact on revenue collections, however the department does not anticipate this occurring.

Since 2000, the Louisiana Department of Wildlife and Fisheries has issued 11 citations for incidents involving species on the list. All but one of these was related to the Louisiana black bear. The civil restitution payments associated with these cases totaled approximately $19,000. The amount collected was based upon the species' value determined in Title 76, which is not affected by the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent individuals unlawfully cause serious negative impacts to the endangered or threatened species, these individuals will be impacted. LDWF will consider this a Class Six Violation, which has the potential to fine individuals no less than $900, but no more than $950, face imprisonment, or both.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no effect on competition and employment.

Bryan McClinton
Undersecretary
1712#017

Evan Brasseaux
Staff Director
Legislative Fiscal Office

## NOTICE OF INTENT

### Workforce Commission
### Plumbing Board

Plumbers—Continuing Professional Education Programs
(LAC 46:LV.101, 312, 1001 and 1002)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Louisiana State Plumbing Board (board), hereby determines that the implementation of amendments to LAC 46:LV.101, 312, 1001 and 1002. The proposed Rule change to §101 is to address a conflict in the current definition of "repair" resulting from the creation of the tradesman plumber license. The proposed Rule change to §312 is to correct a typographical error relating to the initial registration fee for apprentice plumbers and the initial license fee for tradesman plumbers. The proposed Rule change to §§1001 and 1002 amends the number of continuing education hours required for tradesman, journeyman, master plumbers, gas fitters and master gas fitters and sets forth the required hours for dual license holders. These adjustments will be effective upon final publication in the *Louisiana Register*.

The full text of this Notice of Intent can be found in the Emergency Rule section of this *Louisiana Register.*

### Family Impact Statement

1. Estimated effect on the stability of the family? There is no estimated effect on the stability of the family.

2. Estimated effect on the authority and rights of parents regarding the education and supervision of their children? There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated effect on the functioning of the family? There is no estimated effect on the functioning of the family.

4. Estimated effect on family earnings and family budget? There is no estimated effect on family earnings and family budget.

5. Estimated effect on the behavior and personal responsibility of children? There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule? There is no estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

### Poverty Impact Statement

The proposed amended Rule will have no impact on poverty as described in R.S. 49:973.

### Small Business Analysis

The proposed amended Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

**Provider Impact Statement**

The proposed amended Rule is not anticipated to have any impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

**Public Comments**

Any interested person may submit written comments regarding the content of this proposed Rule change to Ashley Jones Tullier, Executive Director of the Board, 11304 Cloverdale Avenue, Baton Rouge, LA, no later than 5 p.m., January 20, 2017.

Ashley Jones Tullier
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Plumbers—Continuing Professional Education Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state or local governmental units as a result of theproposed rule change.

The purpose of the proposed rule change is to update language to reflect current practices by the board, and alter education requirements for individuals holding dual licenses in plumbing and gas fitting.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule change.

The initial registration fee for apprentice plumbers is being reduced to $10 from $20, and the initial license fee is being reduced to $30 from $40. The board is updating these amounts to correct typographical errors and align them to current practices. There will be no change in revenue because the board has been charging the lesser amount.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The coordination of continuing education requirements for individuals holding dual licenses will result in a savings to those individuals by eliminating the duplication of continuing education courses currently required under each individual license. The savings are indeterminable due to the different education providers and varying electives individuals may choose to take.

Education providers will see a decrease in revenues as a result of the proposed rule change because individuals holding dual licenses will not have to duplicate required education courses. However, the board does not anticipate that this change will reduce the number of classes offered.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Individuals holding dual licenses will no longer be required to duplicate continuing education courses, and therefore education providers will see a reduction in revenue, which may increase competition among the different providers.

Louis L. Robein
Board Attorney
1712#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Environmental Quality
### Office of the Secretary
### Legal Affairs and Criminal Investigations Division

Notice of Stakeholder Meeting and Request for Comments on Development of a Water Quality Credit Trading Program for Louisiana

In accordance with R.S. 30:2074(B)(9)(a), the Louisiana Department of Environmental Quality may adopt and promulgate regulations necessary to establish and administer a water quality trading program as an inducement to reduce discharges of pollutants into waters of the state. Interested parties, including members of the public, are invited to submit comments on any aspect that the department may consider in the development of a water quality credit trading program for Louisiana. (1712Pot1)

A stakeholder meeting will be held on January 23, 2018, at 9:30 a.m. in the Galvez Building, Oliver Pollock Conference Room, at 602 North Fifth Street, Baton Rouge LA 70802. Interested persons are invited to attend this meeting and may submit written comments for the department's consideration. Comments may be submitted through mail or e-mail. Written comments may be addressed to Amanda Vincent, Louisiana Department of Environmental Quality, Office of Environmental Assessment, Water Planning and Assessment Division, P.O. Box 4314, Baton Rouge LA 70821-4314. E-mail comments may be sent to wq.standards@la.gov. Persons commenting should reference log number 1712Pot1 and include the name of the commenter and the organization which they represent, if appropriate. Comments are due no later than 4:30 p.m., February 28, 2018.

Progress on the water quality credit trading program development may be communicated to the public through the department webpage (http://deq.louisiana.gov/page/water-quality). The department has prepared draft guidance for a water quality credit trading program for Louisiana, which is available for review on the webpage under water quality credit trading. Any rulemaking subsequent to this notice will be subject to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Herman Robinson
General Counsel

1712#043

## POTPOURRI

### Office of the Governor
### Board of Cosmetology

Public Hearing—Substantive Changes to Proposed Rule—Cosmetologists (LAC 46:XXXI.1110)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Office of the Governor, Board of Cosmetology, published a Notice of Intent in the September 20, 2017 edition of the *Louisiana Register* (Volume 43, pages 1831-1837).

This Notice of Intent proposed to amend certain rules regarding course requirements, examination of applicants, reporting student hours, transfer students, cosmetology schools, manicuring salons, pedicuring, alternative hair design, shampoo assistants and picture identification; to enact rules regarding blow-dry technicians, mobile salons and threading and to repeal rules regarding special permits for make-up application.

Public comments on this Notice of Intent were solicited and as a result of the comments received, the board now proposes to amend the provisions in §1110 of the Notice of Intent.

No fiscal or economic impact will result from the proposed change.

**Title 46**
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**
**Part XXXI. Cosmetologists**
**Chapter 11. Special and Temporary Permits**
**§1110. Special Permits for Threading**

A. Definitions

*Threader*—a person who engages in the practice of threading for compensation, directly or indirectly, including tips.

*Threading*—the practice of using a thread to remove facial hair, including hair on the ears and neck but does not include hair removal by any other means or any other practice within the definition of esthetics.

*Threading Facility*—any premises upon or within which threading is practiced for compensation, directly or indirectly, including tips.

B. Qualifications for Permit as a Threader

1. In order to receive a permit as a registered threader, a person shall meet all of the following requirements:

a. be at least 16 years of age; and

b. complete the board's required training on sanitation.

C. A threading facility owner, who is not a licensed cosmetologist or an esthetician or permitted as a threader, shall employ one or more registered managers who shall be licensed as cosmetologists or estheticians or permitted as a threader. A registered manager shall be present at the facility during all hours of operation and shall be responsible for ensuring that all persons practicing threading within the facility are appropriately licensed and follow all applicable laws and rules and regulations. A threading facility owner who is absent from his respective facility more than two working days per week shall employ a manager, who shall be a registered cosmetologist or a permitted threader and who shall obtain a certificate of registration as a manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 44:

**Public Comments**

Interested persons may submit written comments to Steve Young, Executive Director, Louisiana State Board of Cosmetology 11622 Sunbelt Court, Baton Rouge, LA 70809 on or before February 5, 2018.

**Public Hearing**

A public hearing on these substantive changes to the proposed Rule is scheduled for Monday, February 5, 2018 at 12 p.m. at the office so the State Board of Cosmetology located at 11622 Sunbelt Court, Baton Rouge, LA 70809. At that time all interested individuals will be provided an opportunity to comment on the proposed amendment to §1110 of the Notice of Intent.

Steve Young
Executive Director

1712#061

## POTPOURRI

### Office of the Governor
### Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill—Louisiana Trustee Implementation Group Draft Restoration Plan and Environmental Assessment #2—Provide and Enhance Recreational Opportunities

**Action**

Notice of Availability of Draft Restoration Plan; Request for Public Comments.

**Summary:** In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the federal and state natural resource trustee agencies for the Louisiana trustee implementation group (Louisiana TIG) have prepared a draft restoration plan and environmental assessment #2: provide and enhance recreational opportunities (draft RP/EA). The draft RP/EA describes and proposes restoration project alternatives considered by the Louisiana TIG to compensate for recreational use services lost as a result of the Deepwater Horizon oil spill. The Louisiana TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations, and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The proposed projects are consistent with the restoration alternatives selected in the Deepwater Horizon oil spill final programmatic damage assessment and restoration plan/programmatic environmental impact statement (PDARP/PEIS). The purpose of this notice is to inform the public of the availability of the draft RP/EA and to seek public comments on the document.

**Dates**

**Comments Due Date:** The Louisiana TIG will consider public comments received on or before January 19, 2018.

**Public Meeting:** The Louisiana TIG will also take written and verbal comments at the Coastal Protection and Restoration Authority Board Meeting on January 17, 2018; 9:30 a.m.; Louisiana State Capitol, House Committee Room 5, 900 North Third Street, Baton Rouge, LA 70802.

**Addresses:** Obtaining Documents: You may download the draft RP/EA at any of the following sites:

- http://www.gulfspillrestoration.noaa.gov;
- http://www.la-dwh.com.

Alternatively, you may request a CD of the draft RP/EA (see **For Further Information Contact**). You may also view the document at any of the public facilities listed at http://www.gulfspillrestoration.noaa.gov.

**Submission of Comments:** You may submit comments on the draft RP/EA by one of following methods:

- via the web: http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana;
- via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345; or Louisiana Coastal Protection and Restoration Authority, Attn: Liz Williams, P.O. Box 44027, Baton Rouge, LA 70804;
- in person: written and verbal comments may be submitted at the public meeting on January 17, 2018.

Once submitted, comments cannot be edited or withdrawn. The Louisiana TIG may publish any comment received on the document. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The Louisiana TIG will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). Please be aware that your entire comment, including your personal identifying information, will become part of the public record. Please note that mailed comments must be postmarked on or before the comment deadline of 30 days following publication of this notice to be considered.

For further information, contact:

- Louisiana—Liz Williams at LATIGPublic Comments@la.gov;
- EPA—Tim Landers at landers.timothy@epa.gov.

**Supplementary Information**

**Introduction:** On April 20, 2010, the mobile offshore drilling unit Deepwater Horizon, which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252-MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented

volume of oil and other discharges from the rig and from the wellhead on the seabed. The Deepwater Horizon oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days.

The trustees conducted the natural resource damage assessment for the Deepwater Horizon oil spill under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.). Under OPA, federal and state agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The Deepwater Horizon oil spill trustees are:

- U.S. Environmental Protection Agency (EPA);
- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas Parks and Wildlife Department, General Land Office, and Commission on Environmental Quality.

On April 4, 2016, the trustees reached and finalized a settlement of their natural resource damage claims with BP in a consent decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that consent decree, restoration projects in the Louisiana restoration area are now chosen and managed by the Louisiana TIG. The Louisiana TIG is composed of the following trustees: CPRA, LOSCO, LDEQ, LDWF, LDNR, EPA, DOI, NOAA, and USDA.

**Background:** In a November 2016 notice posted at http://www.gulfspillrestoration.noaa.gov, the Louisiana TIG notified the public that the $22 million originally allocated to the Louisiana Marine Fisheries Enhancement, Research, and Science Center (LMFERSC) in the 2014 programmatic and phase III early restoration plan and early restoration programmatic environmental impact statement (phase III ERP/PEIS) would need to be re-allocated to other restoration projects intended to provide and enhance recreational opportunities. Site issues that arose during planning and development of the LMFERSC had precluded the Louisiana TIG from moving forward with the project. The Louisiana TIG requested restoration project ideas, including in a May 17, 2017, notice posted at http://www.gulfspillrestoration.noaa.gov, to provide and enhance recreational opportunities using the $22 million in early restoration funding.

**Overview of the Draft RP/EA:** The draft RP/EA is being released in accordance with OPA, NRDA regulations found in the *Code of Federal Regulations* (CFR) at 15 CFR 990, and NEPA (42 U.S.C. 4321 et seq.). In the draft RP/EA, the Louisiana TIG presents to the public their plan to compensate for recreational use services lost as a result of the Deepwater Horizon oil spill. The draft RP/EA proposes four restoration project alternatives, evaluated in accordance with OPA and NEPA. The four proposed restoration project alternatives in the draft RP/EA are as follows:

- Elmer's Island Access;
- Island Road Piers;
- Statewide Artificial Reefs;
- Lake Charles Science Center and Educational Complex.

The draft RP/EA also evaluates a no action alternative. One or more alternatives may be selected for implementation by the Louisiana TIG to compensate for recreational use services lost as a result of the Deepwater Horizon oil spill.

The Louisiana TIG has examined the injuries assessed by the Deepwater Horizon trustees and evaluated restoration project alternatives to address the injuries. In the draft RP/EA, the Louisiana TIG presents to the public its plan for providing partial compensation for lost recreational use services in the Louisiana restoration area. The proposed projects are intended to continue the process of using restoration funding to restore recreational use services lost as a result of the Deepwater Horizon oil spill. The total estimated cost of the proposed projects is $22 million. Additional restoration planning for lost recreational use in the Louisiana restoration area will occur at a later time.

**Next Steps:** The public is encouraged to review and comment on the draft RP/EA. A public meeting is scheduled to also help facilitate the public review and comment process. After the public comment period ends, the Louisiana TIG will consider the comments received before issuing a final RP/EA. A summary of comments received and the Louisiana TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

**Administrative Record:** The documents comprising the administrative record for the draft RP/EA can be viewed electronically at http://www.doi.gov/deepwaterhorizon /administrativerecord.

**Authority:** The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), its implementing NRDA regulations found at 15 CFR Part 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451 et seq.), the implementing natural resource damage assessment regulations found at *La. Admin. Code* 43:101 et seq., and NEPA (42 U.S.C. 4321 et seq.).

Michael Ellis
Executive Director

1712#016

## POTPOURRI

### Office of the Governor
### Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill—Louisiana Trustee Implementation Group Draft Strategic Restoration Plan and Environmental Assessment #3—Restoration of Wetlands, Coastal and Nearshore Habitats in the Barataria Basin, Louisiana

**Action**

Notice of availability of Draft Restoration Plan; Request for Public Comments.

**Summary:** In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration and Production Inc. (BP), the Deepwater Horizon Federal and State natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared the Draft Strategic Restoration Plan and Environmental Assessment #3: Restoration of Wetlands, Coastal, and Nearshore Habitats in the Barataria Basin, Louisiana (SRP/EA). The Draft SRP/EA identifies a restoration strategy that will help prioritize future decisions regarding project selection and funding. Rather than selecting specific projects for construction, the Trustees evaluate a suite of restoration techniques and approaches, for example large-scale diversions or marsh creation, to determine how to best support restoring ecosystem-level injuries in the Gulf of Mexico through restoration in the Barataria Basin. This strategic approach to restoration will allow the Trustees to prioritize projects for further evaluation by the LA TIG.

The Louisiana TIG evaluated strategic restoration alternatives under criteria set forth in the OPA natural resource damage assessment regulations. The strategic restoration alternatives are consistent with the restoration alternatives selected in the Deepwater Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS).

NEPA requires federal agencies to consider the potential environmental impacts of planned actions. NEPA provides a mandate and framework for federal agencies to determine if their proposed actions have significant environmental effects and related social and economic effects, consider these effects when choosing between alternative approaches, and inform and involve the public in the environmental analysis and decision-making process. This SRP/EA tiers from the PDARP/PEIS and incorporates by reference the NEPA environmental consequences analysis found in Chapter 6 of the PDARP/PEIS (40 C.F.R. 1502.20; 1502.21). The Louisiana TIG has found, based on its evaluation in the EA portion of this SRP/EA that:

1. the PDARP/EIS included a thorough evaluation of the potential range of environmental effects that could result from the various restoration approaches and techniques analyzed in the PDARP;

2. the analysis of the environmental consequences of those approaches and techniques in the PDARP remains valid;

3. the effects of the restoration approaches and techniques, including the project selected for further planning and environmental review, evaluated in this SRP/EA are within the range of impacts evaluated in the PDARP; and

4. any new information regarding the environmental consequences of the restoration approaches and techniques, including the projects selected for further planning and environmental review, evaluated within this SRP/EA are within the range of and consistent with the environmental impacts identified and analyzed within the PDARP.

The purpose of this notice is to inform the public of the availability of the Draft SRP/EA and to seek public comments on the document.

**Dates**

The Louisiana TIG will consider public comments received or postmarked on or before Monday, February 5, 2018.

**Public Meeting:** The Louisiana TIG will also take written and verbal comments at the Coastal Protection and Restoration Authority Board Meeting on January 17, 2018; 9:30 a.m.; Louisiana State Capitol, House Committee Room 5, 900 North Third Street, Baton Rouge, LA 70802.

Additional information regarding logistics for the Public Meeting, including the timing of the public comment opportunity following the Board Agenda, will be posted to the Louisiana (http://www.la-dwh.com) and DWH websites (http://www.gulfspillrestoration.noaa.gov) will be posted to the Louisiana and DWH websites.

A second public meeting, to be held in the evening, is being planned and when confirmed, the location and time of this meeting will be posted to the Louisiana (http://www.la-dwh.com) and DWH (http://www.gulfspillrestoration.noaa.gov) websites.

**Addresses:** Obtaining Documents: You may download the Draft SRP at:

- http://www.gulfspillrestoration.noaa.gov
- http://www.la-dwh.com

Alternatively, you may request a CD of the Draft SRP/EA (see **For Further Information Contact**). In addition, you may view the document at any of the public facilities listed at http://www.gulfspillrestoration.noaa.gov.

**Submitting Comments:** You may submit comments on the Draft SRP/EA by one of following methods:

- Via the Web: http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana
- Via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345; or Louisiana Coastal Protection and Restoration Authority, ATTN: Liz Williams, P.O. Box 44027, Baton Rouge, LA 70804
- In Person: Written and verbal comments may be submitted at the public meeting on January 17, 2018.

**For Further Information Contact**

- National Oceanic and Atmospheric Administration—Mel Landry, Mel.Landry@noaa.gov, (301) 427-8711
- Louisiana—Liz Williams, LATIGPublicComments @la.gov, (225) 342-7308.

**Supplementary Information**

**Introduction:** On April 20, 2010, the mobile offshore drilling unit Deepwater Horizon, which was being used to drill a well for BP in the Macondo prospect (Mississippi

Canyon 252–MC252), exploded, caught fire, and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The Deepwater Horizon oil spill is the largest maritime oil spill in United States history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas also was released to the environment as a result of the spill.

The Deepwater Horizon Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the Deepwater Horizon oil spill under the Oil Pollution Act of 1990 (OPA; 33 U.S.C. 2701 et seq.). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas Parks and Wildlife Department, General Land Office, and Commission on Environmental Quality.

On April 4, 2016, the DWH Trustees reached and finalized a settlement of their natural resource damages claims with BP in a Consent Decree approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are now chosen and managed by the Louisiana TIG. The Louisiana TIG is comprised of the following DWH Trustees:

- CPRA;
- LOSCO;
- LDEQ;
- LDWF;
- LDNR;
- DOI;
- NOAA;
- USDA; and
- EPA.

This restoration planning activity is proceeding in accordance with the PDARP/PEIS. Information on the Restoration Type considered in the Draft SRP/EA, as well as the OPA criteria against which alternatives were evaluated, can be viewed in the PDARP/PEIS (http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan) and in the Overview of the PDARP/PEIS (http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan).

**Background:** On March 29, 2017, the Louisiana TIG solicited project ideas to sustainably create, restore, and enhance coastal wetlands, and restore or preserve Mississippi River processes (http://www.Gulfspillrestoration.noaa.gov/2017/03/request-restoration-project-ideas-louisiana). From that input and review of other Louisiana restoration planning efforts, including Louisiana's Coastal Master Plan and Deepwater Horizon restoration planning efforts, the Louisiana TIG published a notice of intent on April 28, 2017 announcing its initiation of strategic restoration planning through two phases (82 FR 19659). The first phase would prepare a strategic restoration plan for Louisiana's Barataria Basin. The Deepwater Horizon spill created an ecosystem-level injury to the Gulf of Mexico, which included accelerated loss of critical wetlands, coastal, and nearshore habitats as well as injuries across all trophic levels in the Gulf of Mexico. The most severe losses to coastal marshes, which represent the foundation of the Gulf of Mexico ecosystem, were focused on the Barataria Basin. As described in the April, 2017 notice, the Louisiana TIG has prepared this Draft SRP/EA which focuses on wetlands, coastal, and nearshore habitat restoration type projects in the Barataria Basin restoration area. This geographic focus is appropriate as the PDARP/PEIS found that the Barataria Basin experienced some of the heaviest and most persistent oiling from the DWH spill and because the Basin supports very high primary and secondary production that contributes to the overall health of the northern Gulf of Mexico ecosystem.

**Overview of the Draft SRP/EA:** The Draft SRP/EA is being released in accordance with OPA, the OPA NRDA regulations in the Code of Federal Regulations (CFR) at 15 CFR part 990, and NEPA (42 U.S.C. 4321 et seq.).

The Louisiana TIG focused this SRP/EA on two wetlands, coastal and nearshore habitat restoration approaches described in the PDARP/PEIS: creating, restoring and enhancing coastal wetlands; and restoring and preserving Mississippi-Atchafalaya River processes. Within the two restoration approaches, the PDARP/PEIS identifies a series of potential restoration techniques. These techniques, spanning both restoration approaches, are as follows (PDARP/PEIS, Appendix 5.D):

- Create or enhance coastal wetlands through placement of dredged material;
- Backfill canals;
- Restore hydrologic connections to enhance coastal habitats;
- Construct breakwaters; and

• Controlled river diversions.

Four project types are carried forward for additional consideration:

• sediment diversion projects;

• large-scale marsh creation projects;

• ridge restoration projects; and

• breakwater construction projects (also referred to as shoreline protection projects).

After reviewing the restoration approaches and techniques, the Louisiana TIG identified 13 example projects from public submissions in response to the Notice of Solicitation and from the 2017 Coastal Master Plan. The Louisiana TIG then combined restoration techniques into four strategic restoration alternatives. With the exception of the natural recovery/no action alternative, each of these alternatives meets the Draft SRP/EA's purpose and need "to restore the ecosystem level injuries in Barataria Basin and to restore, rehabilitate, replace, or acquire the equivalent of the injured wetlands, coastal, and nearshore habitat resources and services and compensate for interim losses of those resources from the DWH oil spill." The four strategic restoration alternatives are as follows:

• Alternative 1: Marsh creation, ridge restoration, and large-scale sediment diversion;

• Alternative 2: Marsh creation, ridge restoration, and shoreline protection;

• Alternative 3: Marsh creation and ridge restoration; and

• Alternative 4: Natural recovery/no action.

The Louisiana TIG is proposing two decisions in this draft SRP/EA to restore ecosystem-level injuries in the Gulf of Mexico through restoration of critical wetlands, coastal, and nearshore habitat resources and services in the Barataria Basin. First, the Louisiana TIG proposes a preferred alternative that relies on a suite of restoration techniques in the Barataria Basin, including large-scale sediment diversion, marsh creation, and ridge restoration. Second, the Louisiana TIG proposes to advance specific projects forward for further evaluation and planning: the Mid-Barataria Sediment Diversion and two marsh creation increments within Large Scale Marsh Creation: Component E in northern Barataria Basin. The LA TIG also confirms its 2017 decision to move the Spanish Pass Increment of the Barataria Basin Ridge and Marsh Creation project forward for further evaluation and planning. The trustees are not making a decision to fund these projects for construction at this time. Rather, the trustees will continue to consider the selected projects in future Phase II restoration plans including further OPA and NEPA evaluation.

**Next Steps:** The public is encouraged to review and comment on the Draft SRP/EA. A public meeting is scheduled to also help facilitate the public review and comment process. After the public comment period ends, the Louisiana TIG will consider the comments received before issuing a Final SRP/EA. A summary of comments received and the Louisiana TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

**Administrative Record:** The documents comprising the Administrative Record for the Draft SRP/EA can be viewed electronically at http://www.doi.gov/deepwaterhorizon /adminrecord.

**Authority:** The authority for this action is OPA (33 U.S.C. 2701 et seq.) and the OPA NRDA regulations at 15 CFR part 990, the Louisiana Oil Spill Prevention and Response Act (LA R.S. 30:2451 et seq.), the implementing Natural Resource Damage Assessment Regulations found at LA Admin. Code 43:101 et seq., and NEPA (42 U.S.C. 4321 et seq.).

Michael Ellis
Executive Director

1712#049

## POTPOURRI

### Office of the Governor
### Coastal Protection and Restoration Authority

Public Hearing—Oyster Lease Acquisition and Compensation Program (LAC 43:VII.Chapter 3)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.), the Coastal Protection and Restoration Authority (CPRA) published its Notice of Intent in the November 20, 2017 edition of the *Louisiana Register* (LR 43:2333 (11/20/2017)) to amend a Rule regarding the determination of compensation for oyster lease acreage acquired for purposes of integrated coastal protection (LAC 43:VII.301 et seq.). On December 7, 2017, the CPRA received a request for a hearing regarding the November 20, 2017 Notice of Intent.

Notice is hereby given that the CPRA will conduct a hearing at 10 a.m. Friday, December 29, 2017, at the Water Campus—CPRA, Fourth Floor, 150 Terrace Ave., Baton Rouge, LA 70802. At such hearing, the executive director, or his designated representative(s), will hear oral presentations, arguments, and testimony relative to the November 20, 2017 Notice of Intent.

The Notice of Intent is available for review in the November 20, 2017 *Louisiana Register* at page 2333, http://www.doa.la.gov/Pages/osr/reg/regs2017.aspx.

Michael Ellis
Executive Director

1712#056

## POTPOURRI

### Office of the Governor
### Coastal Protection and Restoration Authority

Public Hearings—State Fiscal Year 2019 Draft Annual Plan

The Louisiana Coastal Protection and Restoration Authority (CPRA), will hold the following public hearings to receive public comments on Louisiana's draft "Fiscal Year 2019 Annual Plan: Integrated Ecosystem Restoration and Hurricane Protection in Coastal Louisiana".

| | | |
|---|---|---|
| Jan. 8 | 5:30 p.m. Open House<br>6:30 p.m. Public Hearing | Belle Chasse Auditorium<br>8398 LA Highway 23<br>Belle Chasse, LA 70037 |

| | | |
|---|---|---|
| Jan. 9 | 5:30 p.m. Open House<br>6:30 p.m. Public Hearing | Houma Terrebonne Civic Center<br>Meeting Room 3<br>346 Civic Center Boulevard<br>Houma, LA 70360 |
| Jan. 10 | 5:30 p.m. Open House<br>6:30 p.m. Public Hearing | Lake Charles Civic Center<br>Jean Lafitte Room<br>900 Lakeshore Drive<br>Lake Charles, LA 70601 |

The CPRA will receive written comments and recommendations on the fiscal year 2019 draft annual plan until February 12, 2018. Written comments should be mailed (to arrive no later than February 12, 2018) to the following address:

Coastal Protection and Restoration Authority
c/o Chuck Perrodin
150 Terrace Avenue
Baton Rouge, LA 70802

If, because of a disability, you require special assistance to participate, please contact the CPRA administrative assistant at 150 Terrace Avenue, Baton Rouge, LA 70802 or by telephone at (225) 342-7308, at least five working days prior to the hearing.

Please visit http://coastal.la.gov/ for more detailed information and copies of the fiscal year 2019 draft annual plan which will be posted prior to the public hearings.

For questions regarding the hearings, please contact Chuck Perrodin at (225) 342-7615.

Michael Ellis
Executive Director

1712#037

## POTPOURRI

### Office of the Governor
### Division of Administration
### Office of Facility Planning and Control

Public Hearing—Substantive Changes to Proposed Rule—Uniform Public Work Bid Form (LAC 34:III.313)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 39:121, the Division of Administration, Facility Planning and Control published a Notice of Intent to promulgate a rule change to Title 34, Government Contracts, Procurement and Property Control, Part III, Facility Planning and Control, Chapter 3, Louisiana Uniform Public Work Bid Form in the November 20, 2017 edition of the *Louisiana Register* (LR 43:2342-2343). The notice solicited comments and testimony. Due to recent events, which resulted in additional discussions and internal review, the Division of Administration, Facility Planning and Control proposes to amend the language of the proposed Rule. Within the Louisiana Uniform Public Work Bid Form, the Division of Administration, Facility Planning and Control proposes to clarify what items are to be included with the submission of the Louisiana Uniform Public Work Bid Form, including written evidence of the authority of the person signing, as required by R.S. 38:2212(B)(5).

No fiscal or economic impact will result from the amendments proposed in this notice.

**Title 34**
**GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL**
**Part III. Facility Planning and Control**
**Chapter 3. Louisiana Uniform Public Work Bid Form**
**§313. Unit Price Form**

A. …

**LOUISIANA UNIFORM PUBLIC WORK BID FORM**

* * *

**THE FOLLOWING ITEMS ARE TO BE INCLUDED WITH THE SUBMISSION OF THIS LOUISIANA UNIFORM PUBLIC WORK BID FORM:**

* The Unit Price Form shall be used if the contract includes unit prices. Otherwise it is not required and need not be included with the form. The number of unit prices that may be included is not limited and additional sheets may be included if needed.

** A **CORPORATE RESOLUTION OR WRITTEN EVIDENCE** of the authority of the person signing the bid for the public work as prescribed by LA R.S. 38:2212(B)(5).

**BID SECURITY** in the form of a bid bond, certified check or cashier's check as prescribed by LA R.S. 38:2218(A) attached to and made a part of this bid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2212.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 35:1522 (August 2009), amended LR 41:336 (February 2015), LR 44:

### Public Hearing

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968(H)(2), the Division of Administration, Facility Planning and Control gives notice of a public hearing to receive additional comments and testimony on these substantive amendments to the proposed Rule. The hearing will be held at 10 a.m. on Monday, January 22, 2018 at the office of Facility Planning and Control, which is located at 1201 North Third St., Suite 7-160, in 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.

Mark A. Moses
Director

1712#053

## POTPOURRI

### Office of the Governor
### Office of Financial Institutions

Judicial Interest Rate for 2018

Pursuant to authority granted by La. R.S. 13:4202(B)(1), as amended, the Louisiana Commissioner of Financial Institutions has determined that the judicial rate of interest for calendar year 2018 will be 5 percent per annum.

John P. Ducrest
Commissioner

1712#003

## POTPOURRI

### Department of Health
### Board of Medical Examiners

Public Hearing—Substantive Changes to Proposed Rule—Physicians—General, Licensure and Certification (LAC 46:XLV.311, 404, and 417)

The Louisiana State Board of Medical Examiners (the "board") published a Notice of Intent to amend its rules in the July 20, 2017, edition of the *Louisiana Register* (LR 43:1447-1449). The notice solicited comments. Comments were received in writing and at a public hearing held on August 28, 2017. As a result of its consideration of the comments received during its meeting on October 16, 2017, the board agreed to make substantive changes to the original proposed Rule amendments in the following respects. In Section: 311.A.6.b: (i) after the words *at least* to delete the words *three years* and add the words "two years, or alternatively have completed one year and have a current commitment in a form and manner specified by the board for a second year,"; (ii) after the words *approved by the board.* to add the words "For physicians pursuing training in oral and maxillofacial surgery, one year of such training may be in a program accredited by the Commission on Dental Accreditation of the American Dental Association."; (iii) after the words *not fewer than* to delete the word *two* and add the word "one"; (iv) to delete and replace the word *three* with the word "two" wherever it appears in 311.A.6.b; (v) after the words *postgraduate year* to delete the word *four* and the acronym *PGY-4* and replace them with the word "three" and the acronym "PGY-3"; and (vi) after the word *training;* to add the words "and applicants are only permitted to engage in extracurricular medical practice outside of the program with the written permission and assurance of the program director that the applicant is in good standing, has good credentials, and is recommend for such extracurricular practice engagement."; (vii) 404.A: after the words *accredited by* to delete the words "(and not on probationary status with)"; (viii) in the title to 417 after the words *Renewal of License;* to add the words "Prerequisite Condition"; and (ix) 417: to add as a new Subsection 417.C, to read as follows: "C. Initial application for renewal of a license, issued on the basis of a commitment for year two of postgraduate clinical training under 311.A.6.b shall, as a prerequisite to renewal consideration, be accompanied by documentation satisfactory to the board of the completion of year two of such training." As substantively amended, these provisions will read as set forth below.

No fiscal or economic impact will result from the amendments proposed in this notice.

### Title 46
### PROFESSIONAL AND OCCUPATIONAL STANDARDS
### Part XLV. Medical Professions
### Subpart 2. Licensure and Certification
### Chapter 3. Physicians
### Subchapter B. Graduates of American and Canadian Medical School and Colleges
### §311. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. - 5.h. …

6. have:

a. …

b. with respect to applications for licensure first received by the board on and after January 1, 2019, completed at least two years, or alternatively have completed one year and have a current commitment in a form and manner specified by the board for a second year, of postgraduate clinical training in the United States or in Canada in a medical residency or equivalent program accredited by the ACGME, AOA, or by the RCPS and approved by the board. For physicians pursing training in oral and maxillofacial surgery, one year of such training may be in a program accredited by the Commission on Dental Accreditation of the American Dental Association. To be approved by the board such program must be: offered and taken in an institution offering not fewer than one residency or equivalent program accredited by the ACGME, AOA, or the RCPS; the program in which the applicant participates must evidence the applicant's progressive responsibility for patient care; the two years of such a program must be in the same specialty or alternatively, constitute the applicant, upon completion of the two years of such program, as eligible for specialty board certification or for postgraduate year three (PGY-3) training; and applicants are only permitted to engage in extracurricular medical practice outside of the program with the written permission and assurance of the program director that the applicant is in good standing, has good credentials, and is recommend for such extracurricular practice engagement.

A.7. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272, 37:1274 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:836 (June 2001), LR 31:1583 (July 2005), LR 37:337 (January 2011), LR 38:3173 (December 2012), amended by the Department of Health, Board of Medical Examiners, LR 44:

### Subchapter H. Restricted Licensure, Permits
### §404. Continuing Postgraduate Training beyond Year One

A. The board shall issue a temporary permit to an applicant of an approved American or Canadian medical school or college (whether allopathic or osteopathic) for the purpose of participating in an accredited program of postgraduate medical training (residency training), beyond postgraduate year one, in a Louisiana medical school, college or other medical institution that is fully accredited by the ACGME and approved by the board.

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275, 37:1277, 37:1281 and 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:844 (June 2001), amended by the Department of Health, Board of Medical Examiners, LR 44:

### Subchapter I. License Issuance, Termination, Renewal, Reinstatement and Exemptions
### §417. Renewal of License; Prerequisite Condition

A. - B. …

C. Initial application for renewal of a license, issued on the basis of a commitment for year two of postgraduate clinical training under §311.A.6.b shall, as a prerequisite to

renewal consideration, be accompanied by documentation satisfactory to the board of the completion of year two of such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:1271, 37:1272, 37:1274, 37:1275.1, 37:1280 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 26:695 (April 2000), LR 27:848 (June 2001), LR 44:

**Public Comments**

Interested persons may submit written comments on these proposed substantive changes to 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. Written comments will be accepted until 4 p.m., January 19, 2018.

**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 originally proposed will be held on Wednesday, January 24, 2018, at 8:30 a.m. in the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130.

Vincent A. Culotta, Jr., M.D.
Executive Director

1712#051

## POTPOURRI

### Department of Health
### Board of Veterinary Medicine

Examination and Board Meeting Dates

**Spring/Summer Examination Dates**

The Louisiana Board of Veterinary Medicine will administer the state board examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American veterinary licensing examination (NAVLE) which will be administered through the International Council for Veterinary Assessment (ICVA), formerly National Board of Veterinary Medical Examiners (NBVME), and the National Board Examination Committee (NBEC), as follows.

| Test Window Date | Deadline To Apply |
|---|---|
| April 9 through April 21, 2018 | February 1, 2018 |

The board will also accept applications for the veterinary technician national examination (VTNE) for state registration of veterinary technicians which will be administered through the American Association of Veterinary State Boards (AAVSB), as follows.

| Test Date | Deadline To Apply |
|---|---|
| March 15 through April 15, 2018 | February 15,2018 |
| July 15 through August 15, 2018 | June 15, 2018 |
| November 15 through December 15, 2018 | October 15, 2018 |

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 301 Main Street, Suite 1050, Baton Rouge, LA 70801, via telephone at (225) 342-2176, and by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

**Board Meeting Dates**

The members of the Louisiana Board of Veterinary Medicine will meet at 8:30 a.m. on the following dates in 2018:

Thursday, February 1, 2018
Thursday, April 5, 2018
Thursday, June 7, 2018 (annual meeting)
Thursday, August 2, 2018
Thursday, October 4, 2018
Thursday, December 6, 2018

These dates are subject to change, so please contact the board office via telephone at (225) 342-2176 or email at admin@lsbvm.org to verify actual meeting dates.

Wendy D. Parrish
Executive Director

1712#039

## POTPOURRI

### Department of Health
### Bureau of Health Services Financing

2018 Third Quarter Hospital Stabilization Assessment

In compliance with House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (*Louisiana Register*, Volume 42, Volume 11).

House Concurrent Resolution 8 of the 2017 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital.

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 8. For the quarter beginning January 1, 2018 through March 31, 2018, the quarterly assessment amount to all hospitals will be $13,707,885. This amounts to 0.1208695 percent of total inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Rebekah E. Gee MD, MPH
Secretary

1712#026

## POTPOURRI

### Department of Health
### Bureau of Health Services Financing

Healthcare Services Provider Fees
Emergency Ambulance Service Providers Fee Assessment

In compliance with Act 305 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing established qualifying criteria and implemented a provider fee for qualified providers of emergency ground ambulance services (*Louisiana Register*, Volume 42, Number 11).

Pursuant to R.S. 46:2626, the Department of Health shall adopt and impose fees on emergency ground ambulance service providers. The total assessment for the initial state fiscal year, SFY 2016, will be $3,762,519. This amounts to 1.5 percent of reported net operating revenue.

Rebekah E. Gee MD, MPH
Secretary

1712#027

## POTPOURRI

### Department of Wildlife and Fisheries
### Wildlife and Fisheries Commission

Public Hearing—Substantive Changes to
Proposed Rule—Sterlet Sturgeon Facility Permit
(LAC 76:VII.909)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission published a Notice of Intent to amend the domesticated aquatic organism and develop a sterlet sturgeon permit in the August 20, 2017 edition of the *Louisiana Register* (LR Vol. 43, No. 08). After a thorough review of the proposed Rule changes, including an oversight hearing by the House Natural Resources Committee, the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission proposes the following substantive changes found in LAC 76:VII.909.C.2. A public hearing pursuant to R.S. 49:968(H)(2) will be conducted January 24, 2018, at 10 a.m.

**Title 76**
**WILDLIFE AND FISHERIES**
**Part VII. Fish and Other Aquatic life**
**Chapter 9. Aquaculture**
**§909. Sterlet Sturgeon**

A. - C.1. …

2. For each occurrence of live sterlet sturgeon being imported into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the department. These requests shall be made at least 10 business days before the expected date of shipment. Procedures and necessary information for obtaining approval are:

a. the shipments of sterlet into Louisiana shall be escorted from the Louisiana state line to the permitted sterlet facility by LDWF enforcement or other departmentally-approved escorts along a departmentally-approved route. The permittee is responsible for all costs associated with the escort service whether it is provided by LDWF or an outside entity;

b. requests shall be made to either via email to the designated departmental contact or via mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

c. requests shall include:

i. Louisiana sterlet sturgeon permit number;
ii. route of transport;
iii. date of transport;
iv. time(s) of transport;
v. destination;
vi. owner of transport vehicle;
vii. species certification made within the past 30 days identifying shipped stock to species;
viii. total number of sterlet sturgeon;
ix. identification of seller and buyer and any permit numbers from the jurisdiction of origin through to the jurisdiction of destination;
x. name and contact information of escort service provider.

C.3.-H.15. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319, R.S. 56:411, and R.S. 56:412.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 44:

**Public Hearing**

A public hearing will be held on January 24, 2018, at 10 a.m. at the Louisiana Department of Wildlife and Fisheries, 2000 Quail Drive, Baton Rouge, LA 70808.

Chad J. Courville
Chairman

1712#052

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