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Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services
Division of Child Welfare

Extended Foster Care Services
(LAC 67:V.3903)

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B) to promulgate LAC 67:V. Subpart 5, Foster Care, Chapter 39, Chafee Foster Care Independence Program and Extended Foster Care, Section 3903. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on November 28, 2018 and shall remain in effect for a period of 120 days.

The Department considers emergency action necessary to facilitate the expenditure of IV-E funds for extended foster care services to the estimated 146 children who are currently eligible for these foster care services as specified in Act 649 of the Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 5. Foster Care
Chapter 39. Chafee Foster Care Independence Program and Extended Foster Care
§3903. Extended Foster Care Services

A. The DCFS will continue to provide foster care services to young adults age 18 to 21 who are a full-time high school student or in the process of receiving an equivalent credential. They shall be eligible for foster care services until their high school graduation; completion of their equivalent credential or, their twenty-first birthday, whichever comes first. The young adult in foster care shall be eligible for all foster care services in accordance with their case plan; and, their foster parents, custodian or other placement provider continued services and benefits for the period of time the young adult is eligible and participating in the extended foster care program. The DCFS will notify all foster children and their foster parents/custodians/placement provider in writing of the availability of extended foster care services; eligibility for the services; and, the benefits at the foster child's seventeenth birthday. The written notifications will continue every 90 days unless the foster child and foster parents/custodian/placement provider consent to participate in extended foster care, or the child becomes ineligible for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with Act 649 of the 2018 Regular Session and R.S. 46:286.24.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare, LR 44:

Marketa Garner Walters
Secretary

1811#023

DECLARATION OF EMERGENCY

Department of Children and Family Services
Licensing Section

State Central Registry—Juvenile Detention Facilities
(LAC 67:V.7505, 7507, 7508 and 7511)

The Department of Children and Family Services (DCFS) has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B) to amend LAC 67:V. Subpart 8, Residential Licensing, Chapter 75, Juvenile Detention Facilities. This Emergency Rule shall be effective November 1, 2018, and shall remain in effect for a period of 120 days.

The proposed Rule amends Chapter 75, Juvenile Detention Facilities, sections 7505, 7507, and 7511, and promulgates Section 7508. In accordance with R.S. 15:1110.2, any owner, operator, current or prospective employee, or volunteer requesting licensure or licensed by the DCFS is prohibited from ownership or employment if that person's name is recorded on the state central registry as a perpetrator with a justified (valid) finding of child abuse and/or neglect. Each provider licensed by the DCFS shall submit a request for a state central registry check for all owners, staff, contractors, and volunteers prior to November 16, 2018. The implementation of this Rule will ensure that no individual with a justified (valid) finding of child abuse and/or neglect listed on the state central registry owns, provides services for, or is employed in a facility licensed by DCFS.

Pursuant to R.S. 15:1110.2, the department shall adopt rules in accordance with the required law. The department considers emergency action necessary in order to meet the requirements of R.S. 15:1110.2.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 75. Juvenile Detention Facilities
§7505. Definitions

* * *

Individual Owner—Repealed.

* * *

Owner or *Operator*—individual or juridical entity exercising direct or indirect control over a licensed entity.

1. For licensing purposes the following are considered owners.

a. Individual ownership—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the facility premises when children/youth are present;

b. Partnership—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the facility premises when children/youth are present;

c. Church-owned, university-owned or governmental entity—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present;

d. Corporation (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present.

Ownership—Repealed.

* * *

Provider—all owners or operators of the facility including the director of such facility.

* * *

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor resulting in a justified and/or valid finding prior to official notification from child welfare whether the person is or is not listed on the state central registry.

* * *

State Central Registry (SCR)—a subsystem of the state repository that maintains information on perpetrators of child abuse and neglect with valid findings on tiers I, II, and III of the child welfare tiered validity system.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 44:

§7507. Licensing Requirements

A. - A.14. ...

15. Any owner/owners of a juvenile detention facility shall provide documentation of a satisfactory fingerprint based criminal record check conducted by Louisiana State Police.

a. When an individual is listed on the licensing application submitted and/or registered as an officer of the board with the Louisiana Secretary of State and does not have access to children/youth in care or children/youth who receive services from the provider and/or who is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form is acceptable in lieu of a satisfactory fingerprint based CBC from LSP signed and dated by the individual. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

B. - B.1.q. ...

r. documentation of a state central registry clearance as required in §7508.

2. - F.3.a.ix ...

x. documentation of a state central registry clearance as required in §7508.

b. – G.1.c. ...

d. any validated instance of abuse and/or neglect as noted by inclusion on the state central registry if the owner is named or if the staff member who is named remains in the employment of the licensee;

e. – G.1.m. ...

n. knowingly permit an individual with a justified (valid) finding of child abuse and/or neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding prior to receipt of the official notification from child welfare that the individual is listed on the state central registry;

o. permit an individual to be on the premises or to have access to children/youth when listed on the state central registry.

H. – I.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 44:

§7508. State Central Registry

A. On November 1, 2018, and no later than November 9, 2018, provider shall submit a list of all owners/operators, contractors, and staff (paid, non-paid, and volunteers) employed/providing services as of November 1, 2018, to licensing management staff and shall attest that the information submitted is true and correct. The list shall be signed and dated by the director on file with the Licensing Section or by the owner. In addition, provider shall submit a list of all owners/operators, contractors, and staff (paid, non-paid, and volunteers) that have resided in another state within the previous five years which shall include the individual's name and state(s) in which the individual resided. The list shall be signed and dated by the director on file with the Licensing Section or by the owner. If no owner/operator, contractor, or staff resided in another state within the previous five years, provider shall submit a signed statement attesting to such to Licensing Section management staff.

B. Current owners as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request for each owner/operator including board members who meet the definition of an owner to DCFS child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For owners/operators including board members who meet the definition of an owner who have resided in another state within the proceeding five years, provider shall submit a request to that state's child abuse and neglect registry

no later than November 16, 2018. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if an owner/operator is currently listed on the state central registry as a perpetrator of valid (justified) abuse and/or neglect. No person who is recorded on any state central registry with a valid (justified) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance or management of the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators who meet the definition of an owner and at any time upon the request of DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the owner/operator is not listed on the state central registry, the provider shall maintain on file the notification(s) that his/her name does not appear on the registry.

5. Upon notification to the juvenile detention facility from child welfare or any other state that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the juvenile detention facility. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to licensing within seven calendar days verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

6. If after an initial state central registry clearance form is received by the juvenile detention facility from child welfare noting that the owner/operator is not listed on the state central registry and due to a new justified (valid) finding, the owner/operator receives a subsequent notice that he/she is listed on the state central registry and he/she advises the juvenile detention facility of the new information prior to receiving official notification from child welfare, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The owner/operator shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the owner/operator with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

C. Prospective owners effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all owners (including board members who meet the definition of an owner) and operators shall be conducted prior to a license being issued. For owners/operators, including board members who meet the definition of an owner who resided in another state within the proceeding five years, provider shall request a state central registry check and obtain clearance information from that state's child abuse and neglect registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the license being issued. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the owner/operator is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance or management of the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators including board members who meet the definition of an owner and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the notification(s) that his/her name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the juvenile detention facility. The owner/operator can voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the board, the provider shall submit a signed, dated

statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his/her position on the board/been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit documentation to licensing verifying that the individual's name has been removed from the Secretary of State's website to licensing if owned by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

6. If after an initial state central registry clearance form is received by juvenile detention facility from child welfare noting that the owner/operator is not listed on the state central registry and due to a new valid finding against the owner/operator receives a subsequent notice (issued after the provider was licensed) that he/she is listed on the state central registry and the owner/operator advises the juvenile detention facility of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The owner/operator, shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises or in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

D. Current staff as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request for each currently employed staff (paid and non-paid staff and volunteers) to DCFS child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For staff who have resided in another state within the proceeding five years, provider shall request information from that state's child abuse and neglect registry no later than November 16, 2018. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry shall be eligible for employment or to provide volunteer services with the facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all staff and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry check form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the staff is not listed on the state central registry, the provider shall maintain on file the notification(s) that the staff's name does not appear on the registry.

5. Upon notification to the provider from child welfare or any other state that the staff is listed on the state central registry, the staff shall no longer be eligible for employment with the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the staff has been relieved of his/her position at the agency with the effective date of the termination. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

6. If after the state central registry clearance form is received by provider from child welfare noting that the staff is not listed on the state central registry and due to a new valid finding the staff receives a subsequent notice that he/she is listed on the state central registry and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the justified (valid) finding of abuse and/or neglect, at any and all times when he/she is on the premises and/or in the presence of a child/youth, shall be directly supervised by another paid staff (employee) of the juvenile detention facility. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

E. Prospective staff effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire or volunteer services provided. For staff persons who have resided in another state within the proceeding five years, provider shall request a state central registry check and obtain clearance information from that state's child abuse and neglect registry prior to hire. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the staff being present on the premises or

having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the staff is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect shall be eligible for employment or to provide volunteer services in a licensed juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry clearance form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the staff is not listed on the state central registry, the provider shall maintain on file the notification(s) that the staff's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the staff is listed on the state central registry, the staff shall no longer be eligible for employment or to provide volunteer services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the staff with the justified (valid) finding of abuse and/or neglect will not be hired for a position at the agency. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

6. If after the initial state central registry clearance form is received by the juvenile detention facility from child welfare noting that the staff is not listed on the state central registry and due to a new valid finding, the staff receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the justified (valid) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the juvenile detention facility at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

F. Current contractors as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a request to DCFS child welfare for a check of the state central registry for each contractor. The request shall be submitted to child welfare no later than November 16, 2018. For contractors who have resided in another state within the proceeding five years, provider shall request a state central registry check no later than November 16, 2018, and obtain clearance information from that state's child abuse and neglect registry. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry shall be eligible to provide contracted services for the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for contractors from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor resides in another state and provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this contractor from the issue date noted on the previous year's registry clearance form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the individual is not listed on the state central registry, the provider shall maintain on file the notification(s) that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the individual is listed on the state central registry, the contractor shall no longer be eligible to provide services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual will no longer provide services to the agency with the effective date of the termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

6. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding the contractor receives a subsequent

notice that he/she is listed on the state central registry and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the justified (valid) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises or in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the contractor with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

G. Prospective contractors providing services effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all contractors shall be conducted prior to providing contracted services or having access to children/youth. For contractors who have resided in another state within the proceeding five years, provider shall request a state central registry check and obtain clearance information from that state's child abuse and neglect registry prior to the individual providing services or having access to children/youth. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect shall be eligible to provide services for the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for contractors from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a contractor resides in another state but provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this contractor from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the individual is not listed on the state central registry, the provider shall maintain on file the notification(s) that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. The state central registry clearance form shall be dated no earlier than 45 days of the individual being present on the juvenile detention facility premises or having access to children/youth.

6. Upon notification to the provider from child welfare or any other state that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the justified (valid) finding of abuse and/or neglect has been relieved of his duties with the juvenile detention facility with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

7. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the juvenile detention facility of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the justified (valid) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. State central registry clearances are not transferable between owners.

H. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner/operator, contractor, volunteer and/or staff, is a perpetrator of abuse and/or neglect after November 1, 2018, with a justified (valid) determination of abuse and/or neglect prior to receipt of official notification from child welfare, shall be verbally immediately reported to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.2.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 44:

§7511. Facility Responsibilities

A. – A.3.d.i. ...

e. Each volunteer shall have documentation of a state central registry clearance from child welfare as required in §7508.

B. – B.5.b.iii. ...

c. Documentation of a state central registry clearance for all Louisiana Department of Education staff or local school district staff that interact with youth following the procedure outlined in §7508.

6. Documentation of a state central registry clearance from child welfare as required in §7508 for a staff.

C. – H.1.a.vii. ...

viii. documentation of a state central registry clearance for all owners and staff as required in §7508.

2. – L.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1565 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013, amended LR 42:396 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 44:

Marketa Garner Walters
Secretary

1811#034

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations—Child Care Criminal Background Checks
(LAC 28:CLXI.Chapter 18)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CLXI.Chapter 18 in *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*. The revisions pertain to owners, directors and director-designees of type III early learning centers. This Declaration of Emergency, adopted on October 18, 2018, will remain in effect for a period of 120 days from the date of adoption or until it becomes a final Rule.

Title 28
EDUCATION
Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations
Chapter 18. Child Care Criminal Background Checks (CCCBC)

§1805. Persons Ineligible for Child Care Purposes

A. - C. ...

D. In addition, for type III centers an owner, director, or director designee shall not have been convicted of, or pled guilty or *nolo contendere* to a felony, within the past 10 years, for any of the following crimes of fraud:

1. 18 U.S.C. 287 and 1341 and R.S. 14:67.11, 14:68.2, 14:70.1, 14:70.4, 14:70.5, 14:70.7, 14:70.8, 14:71, 14:71.1, 14:71.3, 14:72, 14:72.1.1, 14:72.4, 14:73.5, and 14:133.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1 and 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018, amended LR 44:

§1806. Types of CCCBC-based Determinations of Eligibility for Child Care Purposes

A. There are two types of CCCBC-based determinations of eligibility for childcare purposes:

1. "owner/director/director designee of type III centers" determinations of eligibility are required for owners, directors and director designees of type III centers; and

2. "child care staff member" determinations of eligibility are required for owners, directors and director designees of type I and type II centers and volunteers, staff, visitors, contractors and other persons providing services in any type of child care centers when children are present.

B. A person with an "owner/director/director designee of type III centers" determination of eligibility also has a "child care staff member" determination of eligibility.

C. A person with a "child care staff member" determination of eligibility does not have an "owner/director/director designee of type III centers" determination of eligibility.

1. For a person with a "child care staff member" determination of eligibility, a type III center must obtain an "owner/director/director designee of type III centers" determination of eligibility before that person can become an owner, director or director designee of the type III center.

2. To obtain an "owner/director/director designee of type III centers" determination of eligibility for a person with a valid "child care staff member" determination of eligibility, the type III center must request the subsequent determination from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

§1819. Termination of Employment and Removal from Center and Premises

A. - C. …

D. Exception for Owners, Directors and Director Designees of Type III Centers with Notices of Ineligibility

1. Upon receipt of notice from the department that an owner, director or director designee of a type III center is ineligible for child care purposes based solely on a crime of fraud listed in §1805.D of this Chapter, the owner, director or director designee of the type III center may remain on the premises pending a review of the determination of ineligibility by BESE, provided the owner, director or director designee of the type III center timely submits the following:

a. a written request to BESE staff for a review of the determination of ineligibility pursuant to §1823 of this Chapter within 15 business days of receipt of the notice of ineligibility from the department; and

b. documentation listed in §1823.D and E.2 of this Chapter to BESE staff within 30 business days of receipt of the notice of ineligibility from the department.

2. If the owner, director or director designee of the type III center:

a. fails to timely comply with Paragraph 1 of this Subsection;

b. chooses not to request a records review for the notice of ineligibility; or

c. remains ineligible because BESE declines to conduct a review of the determination, or BESE determines that the owner, director or director designee of the type III center shall remain ineligible, then the requirements in:

i. Subsection A of this Section shall apply to directors and director designees of the type III center who are not also owners, or the director or director designee of the type III center may continue to work as a staff member at the type III center other than the director or director designee, or as any type of staff member at a type I or type II center, including the director or the director designee of the type I or type II center; and

ii. Subsection B of this Section shall apply to all owners of type III centers, whether or not they are directors or director designees of type III centers in that such owners must:

(a). divest ownership of the type III center within 30 calendar days of receipt of the original notice of ineligibility from the department if no records review is requested, or within 30 calendar days of receipt of notice of continuing ineligibility from BESE if a records review is requested. The owner may continue to work at the center as a staff member other than the director or director designee, but may not continue to own the center; or

(b). change license types for the center from a type III to a type I or type II license within 30 calendar days of receipt of the original notice of ineligibility from the department if no records review is requested, or within 30 calendar days of receipt of notice of continuing ineligibility from BESE if a records review is requested and then may continue to own the center.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1 and 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:255 (February 2018), effective March 1, 2018, amended LR 44:

§1823. Review of Determinations of Ineligibility for Owners, Directors, or Director Designees of Type III Centers

A. A review of a determination of ineligibility for owners, directors or director designees of type III centers shall not be considered if it is based in part on any crime or event listed in §1805.A through C of this Chapter.

B. A review of a determination of ineligibility may only be considered for owners, directors or director designees of type III centers if the determination is based solely on a crime of fraud listed in §1805.D of this Chapter.

C. A review of a determination of ineligibility based solely on a crime of fraud listed in §1805.D of this Chapter shall not be considered until at least five years have lapsed from the date of entry of the final conviction or plea which resulted in the determination of ineligibility.

D. An applicant may apply to the Board of Elementary and Secondary Education (BESE) for a review of his/her determination of ineligibility based solely on a crime of fraud listed in §1805.D of this Chapter after the lapse of time indicated above and under the following conditions:

1. there are no other crimes or events that would render the applicant ineligible to be an owner, director, or director designee of a type III center pursuant to §1805 of this Chapter other than a crime of fraud listed in §1805.D of this Chapter; and

2. there has been successful completion of all conditions/requirements of any parole or probation.

E. The applicant must provide relevant documentation, including:

1. documentation from the department that the determination of ineligibility is based solely on a crime of fraud listed in §1805.D of this Chapter and there are no other crimes or events that would prohibit the applicant from being eligible to be an owner, director, or director designee of a type III center; and

2. relevant documentation of all conditions and requirements of any parole and/or probation.

F. Applicant's responsibilities are as follows:

1. contact the BESE office and submit a written request for a review of records for a determination of ineligibility as an owner, director or director designee of a type III center based on a crime of fraud listed in §1805.D of this Chapter; and

2. provide each applicable item identified in Subsection D of this Section and any evidence of rehabilitation. It is recommended that the applicant provide letters of support from past/present employers, law enforcement officials or other community leaders.

G. BESE's Responsibilities

1. BESE or its designees will consider the request for a review of the determination of ineligibility and the documentation provided. BESE is not required to conduct a review of the determination and may summarily deny a request for review.

2. If BESE or its designees decide to conduct a records review of the determination, BESE staff shall notify the applicant of a date, time, and place when a BESE committee shall consider the applicant's request. Only written documentation provided prior to the records review will be considered.

3. BESE reserves the right to accept or reject any document as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible to be an owner, director or director designee of a type III center pursuant to §1805.D of this Chapter.

4. The BESE committee shall make a recommendation to the full board regarding whether the determination of ineligibility shall be changed to a

determination of eligibility. Board staff shall notify the applicant of BESE's action.

5. BESE's action is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:

Shan N. Davis
Executive Director

1811#003

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Abortion Facilities—Licensing Standards
(LAC 48:I.4431)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4431 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed and replaced the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and further revise and clarify those provisions (*Louisiana Register*, Volume 41, Number 4).

Act 97 of the 2016 Regular Session of the Louisiana Legislature increased the time period required for certain pre-operative services. Act 563 of the 2016 Regular Session of the Louisiana Legislature provides that at least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of certain printed information, including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality, and given printed information about resources, programs and services for infants and children born with disabilities, as well as other related matters. Act 593 of the 2016 Regular Session of the Louisiana Legislature provides for the disposal, by interment or cremation, of fetal remains and designates procedures for giving patients options for arrangements. The department promulgated an Emergency Rule which amended the provisions governing outpatient abortion clinics in order to comply with the provisions of Acts 97, 563 and 593 (*Louisiana Register*, Volume 42, Number 12).

This Emergency Rule is being promulgated in order to continue the provisions of the December 3, 2016 Emergency Rule. This action is being taken to protect the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective November 29, 2018, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 44. Abortion Facilities
Subchapter C. Pre-operative, Intra-operative, and Post-Operative Procedures
§4431. Screening and Pre-Operative Services

A. - E.1. ...

2. Requirements

a. Except as provided in Subparagraph b below, at least 72 hours prior to the pregnant woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the pregnant woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

i. perform an obstetric ultrasound on the pregnant woman, offer to simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen;

ii. provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions;

iii. offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable;

iv. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form; and

v. retain copies of the election form and certification prescribed above. The certification shall be placed in the medical file of the woman and shall be kept by the outpatient abortion facility for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least ten years from the time the minor reaches the age of majority. The woman's medical files shall be kept confidential as provided by law.

b. If the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of §4431.E.2.a at least 24 hours prior to the woman having any part of an abortion performed or induced.

c. - e. Repealed.

E.3. - G.1. ...

a. Except as provided in Subparagraph b below, at least 72 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion, pursuant to all laws, rules and regulations regarding informed consent. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room. Documentation of all such informed consent provided shall be maintained in the patient's medical record.

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or the referring physician shall comply with all of the requirements of §4431.G.1 at least 24 hours prior to the abortion.

1.c. - 3. ...

a. Except as provided in Subparagraph b below, at least 72 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. - iv. ...

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion the referring physician, or a qualified person shall comply with all of the requirements of §4431.G.3 at least 24 hours prior to the abortion.

4. ...

a. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials, pursuant to any applicable state laws, rules, and regulations, by the physician who is to perform the abortion, the referring physician, or a qualified person. These printed materials shall include any printed materials necessary for a voluntary and informed consent, pursuant to R.S. 40:1061.17. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of the printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

i. - NOTE. Repealed.

b. At least 72 hours before the abortion, the pregnant woman or minor female considering an abortion shall be given a copy of the department's *Point of Rescue* pamphlet and any other materials described in R.S. 40:1061.16 by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws. However, if the pregnant woman or minor female considering an abortion certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 72 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws.

i. The physician or qualified person shall provide to the woman, or minor female seeking an abortion, such printed materials individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

ii. The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

iii. In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment, the physician or qualified person shall provide to the parent copies of the same materials given to the female.

iv. The signed certification form shall be kept within the medical record of the woman or minor female for a period of at least seven years.

c. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of a printed informational document including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs and services for infants and children born with disabilities. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

d. If the pregnant woman seeking an abortion is unable to read the materials, the materials shall be read to her. If the pregnant woman seeking an abortion asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

NOTE: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

5. ...

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 72 hours prior to the abortion, or at least 24 hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility

that is willing and able to perform the abortion at the particular woman's stage of pregnancy. This form shall be maintained in the woman's medical record.

b. ...

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 72-hour period has expired, or until expiration of the 24-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy.

6. - 7.b. ...

8. Disposition of Fetal Remains

a. Each physician who performs or induces an abortion which does not result in a live birth shall ensure that the remains of the fetus are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., and the provisions of LAC 51:XXVI.102 of the *Sanitary Code*.

b. Prior to an abortion, the physician shall orally and in writing inform the pregnant woman seeking an abortion in the licensed abortion facility that the pregnant woman has the following options:

i. the option to make arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.; or

ii. the option to have the outpatient abortion facility/physician make the arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

c. The pregnant woman shall sign a consent form attesting that she has been informed of these options, and shall indicate on the form whether she wants to make arrangements for the disposition of fetal remains or whether she wants the facility to make arrangements for the disposition and/or disposal of fetal remains.

d. the requirements of §4431.G.8 regarding dispositions of fetal remains, shall not apply to abortions induced by the administration of medications when the evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the facility in which the physician administered the inducing medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1811#058

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Nursing Facilities—Licensing Standards
Virtual Visitation (LAC 48:I.9781)

The Department of Health, Bureau of Health Services Financing adopts LAC 48:I.9781 as authorized by R.S. 36:254 and 40:1193.1-1193.11. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1)et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 596 of the 2018 Regular Session of the Louisiana Legislature, hereafter referred to as the Nursing Home Virtual Visitation Act, enacted R.S. 40:1193.1-1193.11 which directed the Department of Health to establish provisions governing nursing facility virtual visitation in order to provide for consent, by a nursing facility resident or a legal representative, relative to the authorization for installation and use of a monitoring device in the room of the resident.

In compliance with the requirements of Act 596, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of nursing facilities in order to adopt provisions governing virtual visitation. This action is being taken to promote the health and well-being of Louisiana residents in nursing facilities that consent to the authorization for installation and use of a monitoring device in the resident's room. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2018-19.

Effective November 20, 2018, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of nursing facilities in order to adopt provisions governing virtual visitation.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 97. Nursing Facilities
Subchapter C. Resident Rights
§9781. Virtual Visitation

A. Each nursing facility licensed by the Department of Health shall comply with the provisions of the Nursing Home Virtual Visitation Act of 2018 enacted by the Louisiana Legislature, or such amendments enacted thereafter.

B. The term "monitoring device", as used in this Section, shall have the same meaning as defined in the Nursing Home Virtual Visitation Act of 2018.

C. Capacity to Consent to Virtual Visitation

1. A resident's capacity to consent to the authorization for installation and use of a monitoring device is presumed if the resident has not been interdicted and has no current documented medical diagnosis affecting capacity.

2. Any question as to capacity of a non-interdicted resident to consent to the authorization for installation and use of a monitoring device shall be determined by the resident's admitting physician, the resident's personal physician, or the medical director of the nursing facility; such determination shall be documented in the resident's medical record.

3. The nursing facility shall have a policy regarding capacity to consent to the authorization for installation and use of a monitoring device in a resident's room; such policy shall include, at a minimum, the provisions of §9781.C.1 and §9781.C.2.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 40:1193.1-1193.11.

HISTORICAL NOTE: Promulgated by the Department of Health Bureau of Health Services Financing, LR 44:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1811#057

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2018-2019 King Mackerel Commercial Season Reopening

The commercial season for the harvest of king mackerel in Louisiana waters was previously closed on October 5, 2018. The secretary of the department has been notified by NOAA Fisheries that the season for the commercial harvest of king mackerel will reopen in adjacent federal waters on November 12, 2018. 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 at its regular meeting on November 1, 2018 to reopen the 2018-19 commercial king mackerel season in Louisiana state waters when he is informed by NOAA Fisheries that federal waters have been reopened to the commercial harvest of king mackerel, the secretary hereby declares:

Effective 12:01 a.m., November 12, 2018, the commercial fishery for the harvest of king mackerel in Louisiana waters will open and remain open until further notice.

Jack Montoucet
Secretary

1811#010

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2018-2019 King Mackerel Commercial Season Reopening

The commercial season for the harvest of king mackerel previously opened on July 1, 2018 and closed on October 5, 2018 when the Department of Wildlife and Fisheries was notified by NOAA Fisheries that the allotted quota for the western Gulf of Mexico zone was projected to be reached. NOAA Fisheries has indicated that there may be enough unharvested quota that additional opportunity may be available for Louisiana commercial harvest following the initial closure of that season, and that the federal waters of the Exclusive Economic Zone (EEZ) may be re-opened to the commercial harvest of king mackerel.

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 emergency rules to set finfish seasons and R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the commission hereby declares:

The secretary of the department is authorized to re-open the 2018-19 season for the commercial harvest of king mackerel in Louisiana waters to coincide with a re-opening of the federal waters of the EEZ off Louisiana by NOAA Fisheries.

The commission further declares that the secretary of the department, upon notification of the chairman, has the authority to open, close, re-open, or re-close Louisiana waters to the commercial harvest of king mackerel if biological and technical data indicate a need for such action.

Robert J. Samanie, III
Chairman

1811#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Closure of Oyster Harvest on Hackberry Bay Public Oyster Seed Reservation

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 August 2, 2018 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 the Secretary

of Wildlife and Fisheries hereby declares that the harvest of oysters from the Hackberry Bay Public Oyster Seed Reservation shall close at one-half hour after sunset on Saturday, November 3, 2018.

Harvest pressure during the season has substantially reduced oyster stocks and continued commercial harvest may threaten the long-term sustainability of remaining oyster resources in this area. Protection of these remaining oyster resources from injury is in the best interest of this public oyster seed reservation.

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 for public health concerns.

Jack Montoucet
Secretary

1811#011

Rules

RULE

Department of Children and Family Services
Licensing Section

Residential Home
(LAC 67:V.Chapter 71)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:V, Subpart 8, Residential Licensing, Chapter 71, Residential Homes—Type IV, §§7109, 7111, and 7119.

Sections 7109, 7111, and 7119 have been amended to clarify the intent of existing statute and revise the residential home licensing standards to incorporate regulations to protect the safety and well-being of children residing in residential homes. This Rule is hereby adopted on the day of promulgation, and it is effective December 1, 2018.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing

Chapter 71. Residential Homes, Type IV

§7109. Critical Violations/Fines

A - A.4. …

5. §7111.D.1.a. if sections noted in §7111.D.7. also cited or §7111.D.1.b.i. if sections noted in §7111.D.7. also cited or §7111.D.2—critical incident reporting; and/or

A.6. - H.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258 (February 2017), amended LR 43:1725 (September 2017), LR 44:1991 (November 2018), effective December 1, 2018.

§7111. Provider Requirements

A. - B.4.b.iii. …

iv. notification signed and dated from OJJ indicating youth is appropriate for non secure placement;

v. - xxiii. …

xxiv. for residents placed from other states, proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health, when indicated. Proof of compliance shall include clearance letters from the compact officers of each state involved;

B.4.c. - C.8. …

D. Incidents

1. Critical and Other Incidents. The provider shall have and adhere to written policies and procedures for documenting, reporting, investigating, and analyzing all incidents and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident.

a. The provider shall submit a written report of the following incidents to the Licensing Section within one calendar day, excluding when the incident occurs on a weekend or state holiday: (If the incident occurs on a weekend or state holiday, provider shall submit a written report on the first working day following the weekend or state holiday.)

i. elopement or unexplained absence of a resident or child of a resident;

ii. use of personal restraints with the exception of escorting;

iii. injuries of unknown origin;

iv. evacuation of residents or children of residents;

v. attempted suicide;

vi. serious threat or injury to the health, safety, or well-being of the resident or child of a resident;

vii. injury with substantial bodily harm while in seclusion or during use of personal restraint; or

viii. unplanned hospitalizations, emergency room visits, and emergency urgent care visits.

ix. any other unplanned event or series of unplanned events, accidents, incidents and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident.

b. The program director or designee shall:

i. immediately verbally notify the legal guardian of any incident noted in §7111.D.1.a.i-ix.;

ii. immediately verbally notify the appropriate law enforcement authority in accordance with state law;

iii. if requested, submit a final written report of the incident to the legal guardian as soon as possible, but no later than five working days of the incident;

iv. conduct an analysis of the incident and take appropriate corrective steps to prevent future incidents from occurring;

v. maintain copies of any written reports or notifications in the resident's or child of a resident's record;

vi. ensure that a staff person accompanies residents and children of residents when emergency services are needed.

2. The provider shall verbally notify state office licensing management staff immediately in the event of a death and follow up with a written report within one calendar day of the verbal report. If the death occurs on a weekend or State holiday, provider shall verbally notify state office Licensing management staff as soon as possible on the first working day following the weekend or State holiday and follow up with a written report the same day as verbal notification. The provider shall immediately verbally notify the legal guardian and law enforcement in the event of a death.

3. - 5.h. …

i. date and time the legal guardian, licensing, and, if applicable, law enforcement were notified;

j. - k. ...

l. documentation of actions taken by the provider regarding staff involved in the incident to include corrective action.

6. A copy of all written reports shall be maintained in the resident's or child of a resident's record.

7. Critical incidents are noted in §7111.D.1.a.iv-vi and ix, §7111.D.2., and §7111.E.2.

E. - E.2. …

3. After reporting suspected abuse and/or neglect as required by Louisiana law, provider shall submit a written report to the licensing section immediately or the next working day if the suspected abuse and/or neglect occurred on a weekend or state holiday. At a minimum the report shall contain:

E.3.a. - J.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:1725 (September 2017), LR 44:1991 (November 2018), effective December 1, 2018.

§7119. Physical Environment

A. - A.12. …

13. No interior door shall have a lock or fastening device that prevents free egress to the exterior of the home from the interior. No exterior door shall have a lock or fastening device that prevents free egress from the interior unless the provider has documentation of written annual approval from the Office of State Fire Marshall (OSFM).

B. - P.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S.36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:828 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:285 (February 2017), LR 44:1992 (November 2018), effective December 1, 2018.

Marketa Garner-Walters
Secretary

1811#022

RULE

Department of Economic Development
Office of Entertainment Industry Development

Motion Picture Production Tax Credit Program
Qualified Entertainment Company Payroll Tax Credit Program (LAC 61:I.Chapter 16)

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). This Rule is hereby adopted on the day of promulgation.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter E. Motion Picture Production Tax Credit Program—Qualified Entertainment Company Payroll Tax Credit Program

§1623 General

A. Purpose. The purpose of this Sub-chapter is to implement the Qualified Entertainment Company Payroll Tax Credit Program as established by Act 309 of the 2017 Regular Session of the legislature, contained within the Motion Picture Production Tax Credit Program, pursuant to the provisions of R.S. 47:6007.

B. Program Description. The Qualified Entertainment Company Payroll Tax Credit Program provides payroll tax credits as an inducement for qualified entertainment companies ("QEC"s) to permanently locate new or expand existing operations in Louisiana.

C. No other LED incentives for QEC payroll expenditures. A QEC shall not receive any other incentive administered by LED that is based directly upon any QEC Payroll, for which the QEC is obligated or has received benefits under the QEC Contract.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:1992 (November 2018).

§1624 Definitions

A. Terms not otherwise defined in this sub-chapter shall have the same meaning given to them in R.S. 47:6007, unless the context clearly requires otherwise.

B. In this Sub-chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Affiliate—

a. any business entity that is:

i. controlled by the QEC;

ii. a controlling owner of the QEC; or

iii. controlled by an entity described in Subparagraph a or b;

b. control, for purposes of this definition, means owning either directly or indirectly through control of or by another business entity:

i. a majority of the voting stock or other voting interest of such business entity or the QEC; or

ii. stock or other interest whose value is a majority of the total value of such business entity or the QEC;

c. a controlled or controlling business entity will be deemed a non-affiliate (not an affiliate) if the department determines that neither the QEC nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Approved Rehire Employees—a former employee who was previously on the payroll of the QEC, or QEC parent entity, subsidiary, or affiliate in Louisiana, but has been off such payroll for a period of at least four months, may be considered a new job if rehired into a position that is not part of the baseline jobs. When determining New Job qualification, at the discretion of LED, LED shall consider all

relevant factors including but not limited to; ES4's, W2's and QEC re-hiring practices, and the intent of the QEC payroll tax credit program to permanently locate new or expand existing operations in Louisiana.

Baseline Jobs—the number of employees of a QEC, including affiliates, working an average of 30 hours per week, during the payroll period including the twelfth of the month, in the month completed prior to the contract effective date, as verified on the applicable ES-4 form or equivalent filing form. Baseline jobs must be maintained in any year for which the QEC requests tax credits.

Baseline Job Payroll—W-2, Box 1 wages for baseline jobs.

Contract Effective Date—the date the application and application fee are received by LED, or a later contract effective date as agreed to between the parties. The contract effective date cannot be earlier than the date the application and application fee are received by LED.

Department—Louisiana Department of Economic Development, also known as "LED"

LDR—Louisiana Department of Revenue

Minimum Payroll Threshold—a minimum QEC Payroll of $45,000 per New Job, or for a partial year employee, shall mean $3,750 per month for each month from the date of initial employment.

New Jobs—

a. full-time employment in Louisiana, working an average of 30 hours or more per week;

b. filled by Louisiana residents;

c. at the project site; and

d. with the exception of Approved Rehire Employees, who were not previously on the QEC's Louisiana payroll, nor previously on the payroll of the QEC's parent entity, subsidiary, or affiliate in Louisiana, or previously on the payroll of any business whose physical location and employees are substantially the same as those of the QEC in Louisiana, as confirmed by an independent CPA in an annual expenditure verification report submitted to LED for review, and approved by the secretary. New Jobs shall not mean:

i. baseline jobs existing one month prior to contract effective date; or

ii. jobs located at facilities other than the approved Project Site.

Office—Office of Entertainment Industry Development, also known as "OEID"

Program Issuance Cap—for applications submitted on or after July 1, 2017, the office may issue no more than $150,000,000 in tax credits ("total cap") in any fiscal year, with $7,500,000 reserved for qualified entertainment companies ("QEC cap"), $7,500,000 reserved for Louisiana screenplay productions ("LA screenplay cap"), $15,000,000 reserved for independent film productions ("independent film cap"), with the remaining $120,000,000 available for general allocation to any state certified production ("general cap").

Project Site—the facility name and street address, as stated in the QEC contract.

QEC Payroll—W-2, Box 1 wages. For a partial year employee, the minimum payroll threshold may be met if the payroll for the partial year employee meets or exceeds $3,750.00 per month for each month from the date of initial employment.

QEC Payroll Tax Credits—a tax credit for expenditures related to QEC payroll, authorized by the Motion Picture Production Tax Credit Program, R.S. 47:6007.

Resident—a natural person who is required to file a Louisiana resident individual income tax return, as verified by independent CPA's on the annual verification report.

Secretary—Secretary of the Department of Economic Development

Total Jobs—the number of baseline jobs plus new jobs.

Total Payroll—the amount of baseline jobs payroll plus new jobs payroll.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:1992 (November 2018).

§1625 QEC Application and Application Fee

A. Application

1. A QEC application form shall be submitted to the office, via registered mail or if available, submitted electronically, to include;

a. a detailed company description, explaining how the business is directly or indirectly engaged in the development of audio, visual, or both audio-visual entertainment products for public consumption;

b. number of current and proposed new employees, with payroll estimates and average hours worked per week;

c. disclosure of affiliates;

d. most recent ES-4 tax form;

e. any other additional information as requested by the office or the secretary.

B. Application Fee

1. A non-refundable application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of $500, and a maximum fee of $15,000, shall be submitted with the QEC application, payable to the office, as required by R.S. 36:104.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:1993 (November 2018).

§1626 QEC Application Review and Qualification Determination

A. Application Review

1. When determining which applicants may qualify, the office and the secretary shall consider a number of discretionary factors, including but not limited to:

a. entertainment business type:

i. eligible business types- may include but not be limited to;

(a). visual effect companies;

(b). entertainment business back-office support

ii. ineligible business types- may include but not be limited to:

(a). telecommunication;

b. number and payroll of current and proposed new jobs;

c. location of facility that will be the project site;

d. number and location of similar entertainment business facilities in Louisiana;

e. business history, i.e. start-up company or track record of established business;

f. the impact of the business on the overall economy of the state;

g. conviction for a criminal offense related to obtaining or attempting to obtain tax credits;

h. availability of tax credits in any given year.

B. Qualification Determination

1. Upon a determination of qualification, LED will contact applicant to discuss contract terms and to request an expenditure verification report fee advance deposit of $7,500.

2. Upon a determination of non-qualification, the office and the secretary shall issue a denial letter to the applicant indicating the reason for denial, and the Office shall provide written notice to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means. The denial letter shall be the final agency decision of LED.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:1993 (November 2018).

§1627 QEC Contract

A. Upon a determination of qualification, and receipt of the $7,500 expenditure verification report fee advance deposit, the office and the secretary may enter into a QEC contract with an applicant, which shall include but not be limited to:

1. job and payroll estimates, per calendar year;

2. tax credit reservation schedule, per fiscal year;

3. expenditure verification report fees;

4. procedure for requesting final certification of tax credits;

5. requirements for eligibility to receive final certification of tax credits, including but not limited to retention of baseline jobs, establishment of new jobs and attainment of minimum payroll threshold;

6. term for a period of up to five years, as may be offered by the office and the secretary;

7. designation of a single project site in Louisiana—the QEC payroll tax credits the applicant shall receive will be based upon the operations at the project site;

B. A fee of $250 shall be filed with a request for any contract amendment, including but not limited to, a revision to the tax credit reservation schedule, a change in ownership, a change in name or a change in location.

C. An applicant may have multiple QEC contracts covering multiple locations. The eligibility of each location shall be determined separately;

D. For each QEC contract, LED shall certify that the applicant has a net overall increase in employment statewide for each new job;

E. A QEC contract may, with the written approval of the office and the secretary, be transferred to a business entity purchasing or continuing the operation of a project site. Upon such transfer, the employment baseline shall be that of the transferee or purchaser during the 45 day period prior to the transfer or purchase;

F. The QEC contract may be renewed at the discretion of the office and the secretary, for an additional five years, if the applicant has complied with the terms of the QEC contract and has not performed any act, nor failed to perform any act, which would have made the applicant liable for suspension, and has otherwise complied with the provisions of R.S. 47:6007. The same approval process as used for the original application and QEC contract will be followed for renewal QEC contracts, including additional application and expenditure verification report advance deposit fees.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:1994 (November 2018).

§1628 QEC Final Certification Procedures

A. By March 1 of every year, QEC's may request final certification of credits by filing its employee W-2's with the office and its assigned CPA, and any other additional information as requested by LED to verify conformance with statutory requirements.

B. An expenditure verification report shall then be completed by an independent certified public accountant, licensed in the state of Louisiana and assigned by LED. Failure to submit W2's by March 1 may result in credit issuance being delayed into the next available fiscal year.

C. After receipt and review of the expenditure verification report, and any other supporting documentation, the office and the secretary shall issue a final tax credit certification letter to the QEC indicating the type, credit rate and amount of credits granted, in accordance with the provisional allocations and amounts set forth in the tax credit reservation schedule, or a written denial.

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

2. 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 set forth in the tax credit reservation schedule, 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.

D. Tax credits shall be issued on a first come, first serve basis, until the QEC or total cap have been met, in accordance with program rules.

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

F. After review of the expenditure verification report, final tax credit certification letter (if any), and any other pertinent factors, including but not limited to availability of tax credits in any given year, future year tax credit reservations may be revised, by amending the tax credit reservation schedule.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development LR 44:1994 (November 2018).

Anne G. Villa
Undersecretary

1811#032

RULE

Board of Elementary and Secondary Education

Administrative Board Operations and Programs
(LAC 28:I.Chapter 3, 503, 705,
715, 1303, 2103, and 2709)

The Board of Elementary and Secondary Education has amended LAC 28:I in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10). Provisions governing the board has been amended, adopted, or repealed in order to add pertinent definitions, update citations, remove obsolete information, and streamline the regulations. The basis and rationale for this Rule are to maintain the regulations that govern the Board of Elementary and Secondary Education, as well as the programs charged to the board. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION
Part I. BESE/8(g) Operations
Subpart 1. Board of Elementary and Secondary Education

Chapter 3. Composition and General Authority

§307. General Powers and Duties

A. - A.9. ...

10. except as otherwise provided by law, approve private schools in accordance with the provisions of R.S. 17:11 and other applicable laws;

11. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VIII, §8 and R.S. 17:6(A), 17:7(2)(a), 17:7(3), 17:7(4), 17:7(5), 17:7(6)(a)(i), 17:7(7), 17:7(8), 17:4.1, 17:43, 17:348, 17:6(A)(10), 17:6(A)(11), 17:10.5, 17:1990 and 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 38:3150 (December 2012), LR 39:3262 (December 2013), LR 44:1995 (November 2018).

§309. State Superintendent

A. - D.4. ...

5. The state superintendent may delegate, subject to the approval of the board, the appointing authority conferred upon him/her by law as to the recovery school district to the recovery school district supervising executive. The state superintendent may delegate administrative authority conferred upon him/her by law as to the recovery school district to the recovery school district supervising executive, subject to any restrictions provided by law, rule, or policy.

E. - E.6.b. ...

c. The state superintendent shall appoint the recovery school district supervising executive with prior approval of the board. The board president shall be notified of any acting appointments taking effect and the board shall be notified of the acting appointment at its next regularly scheduled meeting. Upon appointment approval by the board, the employment of the recovery school district supervising executive will continue unless he/she is removed by the board upon recommendation of the state superintendent or upon voluntary separation from employment.

6.d. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6(A)(10), 17:21(C), 17:6(B), 17:21(B), 17:21(D), 17:21(A), 17:1990, 17:24(A), 17:24(B), 17:24(C), 17:24(D), 17:22(2)(f), 36:645, 17:22(6), 17:88(B), 17:88(D), 17:92, 17:10.6(A)(2), 17:3983, 17:43, 17:1945, 36:642(C)(1), and 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 37:886 (March 2011), LR 38:3150 (December 2012), LR 39:3262 (December 2013), LR 44:1995 (November 2018).

§311. The Special School District

A. - A.1.a. ...

b. The special school programs provide educational services to students enrolled in state-approved programs in non-traditional settings such as those provided by the Department of Health's Office for Citizens with Developmental Disabilities and the Office of Behavioral Health, the Office of Juvenile Justice, and the Department of Public Safety and Corrections.

B. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:4.1, R.S. 17:6(B), 17:43, 17:1945, 36:642(C)(1), and 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:412 (March 2008), amended LR 38:3151 (December 2012), LR 39:3262 (December 2013), LR 44:1995 (November 2018).

§313. The Recovery School District

A. - B.2. ...

3. The overall administrative organization of the recovery school district consists of the board in the exercise of its approval over the administration of the recovery school district, the state superintendent acting as the recovery school district's governing authority, consistent with authority delegated by the board and statutory authority acknowledged by the board, and a supervising executive of the recovery school district.

4. The recovery school district shall be administered by a supervising executive, who shall report to the state superintendent. The responsibilities and duties of the recovery school district supervising executive shall be prescribed by the state superintendent.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:6(B), and 36:651(F).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:413 (March 2008), amended LR 36:2851 (December 2010), LR 38:3151 (December 2012), LR 39:3262 (December 2013), LR 44:1995 (November 2018).

Chapter 5. Organization

§503. Advisory Councils

A. - C.3.b.i. ...

ii. the supervising executive of the RSD, who is appointed by the state superintendent of education;

C.3.b.iii. - G.2. ...

3. Agendas of council meetings shall be distributed to council members by the board staff at least 7 days in advance of a meeting, calendar permitting. All council meetings shall be conducted in accordance with the Louisiana open meetings law (R.S. 42:11 et seq.). In the event that no items have been referred by the board to an advisory council for consideration, there are no items pending on an advisory council agenda, and the LDE has no

items to bring forward to the advisory council at least 10 days prior to a scheduled meeting, the meeting shall be cancelled and the members shall be notified of the cancellation.

4. In accordance with R.S. 42:19, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the statute.

5. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:6(A)(15), 17:11, 17:24.4, and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR 38:3152 (December 2012), LR 39:3263 (December 2013), LR 42:563 (April 2016), LR 44:744 (April 2018), LR 44:1995 (November 2018.)

Chapter 7. Operations

§705. Agenda

A. - B.3. ...

C. Amending Board or Committee Agenda. In accordance with R.S. 42:19, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the statute.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013), LR 44:1996 (November 2018).

§715. Executive Session

A. An executive session of the board or its committees shall be conducted in accordance with state law and may include discussion of matters relative to:

1. the character, professional competence, or physical or mental health of a person;

2. any report, development, or course of action regarding security personnel, plans, or devices;

3. prospective and/or pending litigation; and

4. any other issue permitted by law to be discussed in executive session.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:16, 42:17, and 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 39:3265 (December 2013), LR 44:1996 (November 2018).

Chapter 13. Regulatory Documentation and Procedures

Subchapter A. Regulatory Documents

§1303. Rulemaking

A. - B. ...

C. The following process must be followed for adoption of a new policy, the amendment of an existing policy, or the repeal of an existing policy.

1. The board approves a proposed Rule to be advertised as a Notice of Intent. The Notice of Intent approval will serve as authorization for the BESE executive director to submit the Notice of Intent to the Division of Administration's Office of the State Register to be published in the *Louisiana Register* for final adoption as a Rule at the expiration of the required 90-day advertisement period, if no public comments are received relevant to said Notice of Intent. If comments are received regarding the Notice of Intent, the comments will be considered by the board prior to final adoption as a Rule (refer to Subparagraphs 2.e-2.f.ii of this Subsection).

2. Following approval of a proposed Rule to be advertised as a Notice of Intent:

a. the appropriate LDE/BESE staff is requested to submit proposed policy language, a Family Impact Statement, a Poverty Impact Statement, a Small Business Analysis, a Provider Impact Statement, a Public Comments paragraph, a Public Hearing paragraph (if applicable), a Fiscal and Economic Impact Statement (FEIS), and comparison language to the board recorder for processing;

b. ...

c. after the FEIS is approved by the LFO, the board recorder prepares the Notice of Intent in compliance with statutory specifications and submits it to the *Office of the State Register* for publication in the *Louisiana Register*. A report regarding the Rule is also submitted to the appropriate legislative committees;

d. Upon publication of the Notice of Intent in the *Louisiana Register*, a period of 90 days must elapse before the Notice of Intent can be adopted as a final Rule.

e. - f.ii. ...

3. The deadline for submission of information for publication in the *Louisiana Register* is the tenth of the month unless the tenth falls on a weekend or holiday, in which case the deadline will be the last business day prior to the tenth of the month.

D. - E. ...

F. Codified board policies are posted on the Office of the State Register's website and are also accessible through links on the BESE website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), amended LR 37:3220 (November 2011), LR 38:3156 (December 2012), LR 39:3267 (December 2013), LR 44:745 (April 2018), LR 44:1996 (November 2018).

Subchapter B. Petitioning for Rulemaking

§1309. Content of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition the board's executive director in writing to adopt a new rule or amend or repeal an existing rule contained within the *Louisiana Administrative Code*, Title 28.

B. The petition shall include:

1. the petitioner's name and address;

2. the petitioner's interest in the proposed action;

3. the basis for the request;

4. specific text or a description of the proposed language desired for the adoption or amendment of a rule or the specific regulation and language requested for repeal;

5. any other information that justifies the proposed action; and

6. the signature of the petitioner requesting the rule change.

C. A copy of the form to petition for rulemaking, as described in Subsection B of this Section, can be obtained:

1. from BESE's website;

2. by requesting a copy sent through the U.S. Mail; or

3. by means of facsimile.

D. The petition shall be submitted by certified mail and addressed to:

Board of Elementary and Secondary Education

Attn: Executive Director of the Board
P.O. Box 94064, Capital Station
Baton Rouge, LA 70804

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 49:953 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1996 (November 2018).

§1311. Processing a Rulemaking Petition

A. Upon receipt, a petition for rulemaking shall be reviewed for completeness, as prescribed in LAC 28:I.1309. If found complete, the petition shall be processed in accordance with this Section.

B. Within 90 days of receipt of the petition for rulemaking, the executive director, after consulting with the board's officers, shall either:

1. initiate procedures for processing a proposed regulation, along with the rulemaking procedures provided in R.S. 49:950 et seq., upon approval to proceed with rulemaking; or

2. shall notify the petitioner in writing, stating the reason(s) for the denial, upon a denial to proceed with rulemaking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 49:953 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:1997 (November 2018).

Subpart 3. Bulletin 921—Policy and Procedure Manual for the Louisiana Quality Education Support Fund 8(g)

Chapter 21. Legislation and Purpose

§2103. Definitions

[Formerly LAC 28:XCIII.103]

A. As used in this document, the following terms shall have the meaning specified.

8(g) Advisory Council—an advisory council to the BESE which annually makes recommendations on the program, budget, and recommended projects for funding to be allocated by the BESE. The council shall operate in accordance with LAC 28:I.503 and shall serve without compensation, except for reasonable and necessary expenses for attending meetings and performing duties.

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3142 (December 2012), amended LR 44:1997 (November 2018).

Chapter 27. Annual 8(g) Program and Budget

Subchapter A. Establishment of Annual 8(g) Program and Budget

§2709. Notice of Adoption of Annual 8(g) Program and Budget

[Formerly LAC 28:XCIII.709]

A. The board shall post on its website a summary of the adoption of the annual 8(g) program and. Such summary shall consist of a summary of the educational objectives and/or programs to receive budgetary priorities, including the proposed allocation. Such report shall include, but not be limited to, the following:

1. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012), amended LR 44:1997 (November 2018).

Shan N. Davis
Executive Director

1811#031

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Schools with Insufficient Test Data; Strength of Diploma Index; and Urgent and Comprehensive Intervention: Subgroup Performance
(LAC 28:XI.607, 709, and 901)

In accordance with R.S. 17:6(A)(10) and R.S. 49:950 et seq., the Administrative Procedure Act, that the Board of Elementary and Secondary Education (BESE) has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION
Part XI. Accountability/Testing
Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 6. Inclusion in Accountability

§607. Pairing/Sharing of Schools with Insufficient Test Data

[Formerly §521]

A. Any school with at least one testing grade (4-11) will receive an SPS based only on its own student data provided that it meets the requirements of LAC 28:XI.605.

B. Any K-3 school will receive an SPS calculated according to the formula in LAC 28:XI.301 using the K-8 assessment index based only on its own student data, provided it meets the requirements of LAC 28:XI.605, or an SPS calculated according to the formula in LAC 28:XI.301 using the K-8 assessment index based only on its own student data and the K-8 progress index equal to the K-8 progress index of the school to which it is paired, whichever results in the higher SPS.

C. 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.

D. Any school enrolling only 12th 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.

E. Any K-2, 9-12 configuration shall receive an SPS based solely on the 9-12 data.

F. 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 nonstandard school, or when there is no

distinct feeder pattern, the district shall select the paired school.

G. Requirements for the number of test/graduation index units shall be the sum of the units used to calculate the school's SPS (see LAC 28:XI.605).

H. 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 an SPS and status based on minimum test unit counts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 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 44:453 (March 2018), LR 44:1997 (November 2018).

Chapter 7. Graduation Cohort, Index, and Rate [Formerly Chapter 6]

§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
* * *	
Four-year graduate (includes Career Diploma student with a regional Jump Start credential)	100
Five-year graduate with any diploma *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. Five-year graduates who earn an Associate's Degree will generate 150 points.	75
Six-year graduate with any diploma	50
* * *	

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 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 44:455 (March 2018), LR 44:1998 (November 2018).

Chapter 9. Urgent Intervention and Comprehensive Intervention

§901. Subgroup Performance

A. - A.1.f. …

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 and ACT index and 40 units in each assessment and progress index included in the school's overall school performance score calculation.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:456 (March 2018), amended LR 44:1998 (November 2018).

Shan N. Davis
Executive Director

1811#029

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.2318)

Editor's Note: Section 2318 is being repromulgated to correct a citation error. The original Rule may be viewed in its entirety on pages 2132-2134 of the November 20, 2017 issue of the *Louisiana Register.*

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*: §2318, The TOPS University Diploma; §2319, The Career Diploma; §2335, Computer/Technology Education; §2345, Foreign Languages; §2353, Mathematics; §2355, Music; and §3113, Work-Based Learning. The revisions update the science and social studies requirements for the TOPS University Diploma; update the mathematics and social studies requirements for the Career Diploma; update the course offerings for computer/technology education, foreign languages, mathematics, and music; and update work-based learning requirements.

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

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - C.3.c.iii.(f). …

(i). AP environmental science;

(ii). IB environmental systems;

(g). one of:

(i). physics I;

(ii). IB physics I;

(iii). AP physics I;

(h). one of:

(i). AP physics C: electricity and magnetism;

(ii). AP physics C: mechanics;

(iii). IB physics II;

(iv). AP physics II;

(i). one of:

(i). biology II;

(ii). AP biology;

(iii). IB biology I;

(iv). IB biology II;

(j) – (j).(v). …

d. social studies—four units:

i. - iii.(g). …

(h). AP psychology;

3.e. - 4.a.ii. …

iii. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the career and technical education areas of concentration offered in their school system each year. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics and Animation	1
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

C.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 43:2132 (November 2017), repromulgated LR 44:1998 November 2018.

Shan N. Davis
Executive Director

1811#042

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Teaching Authorizations and Certification
(LAC 28:CXXXI.203, Chapter 3, 414, 605, 803, and Chapter 9)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION
Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 2. Initial Teacher Certification
Subchapter B. Testing Required for Certification Areas
§203. PRAXIS Exams and Scores
(Formerly §243)

A. - B. …

* * *

C. Certification Areas

1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
Subject Area	**Praxis Test**	**Score**			**PLT 7-12**
Agriculture	Agriculture (0700) Prior to 6/8/14	510	---	---	157
	Agriculture (5701) Effective 6/8/14	147			
American Sign Language	American Sign Language Proficiency Interview (ASLPI-0634)	3+ 170	World Languages Pedagogy 0841 (Score 158)		
Biology	Biology: Content Knowledge (0235 or 5235)	150	---	---	157
* * *					

2. All-Level K-12 Certification

All-Level K-12 Certification Areas							
Subject Area	**Praxis Test**	**Score**	**PLT K-6**		**PLT 5-9**		**PLT 7-12**
Grades K-12 Art	Art: Content Knowledge (0134 or 5134)	159	160	or	160	or	157
Grades K-12 Dance	None Available**	---	160		160	or	157
Grades K-12 Foreign Languages	Chinese (Mandarin):World Language (5665)	164	PLT K-6 (Score 160) or PLT 5-9 (Score 160) or PL7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)				
	French: World Language (5174)	157					
	German: World Language (5183)	157					
	Spanish: World Language (5195)	157					
	American Sign Language Proficiency Interview (ASLPI - 0634)	3+ 170					
Grades K-12 Music	Music: Content Knowledge (0113 or 5113)	151	160	or	160	or	157
Grades K-12 Health and Physical Education	Phys. Education: Content Knowledge (0091 or 5091), Prior to 6/8/14	146	160		160	or	157
	Health and Physical Education (5857), Effective 6/8/14	160					

**At this time, a content area exam is not required for certification in Louisiana

D. - E. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 44:1999 (November 2018).

Chapter 3. Teaching Authorizations and Certifications

Subchapter B. Nonstandard Teaching Authorizations

§323. Temporary Authority to Teach (TAT)

A. Temporary authority to teach (TAT) is issued for one calendar year, while the holder pursues alternate certification program admission requirements or certification requirements. A TAT cannot be issued to teachers who previously held a temporary employment permit (TEP) or a standard teaching certificate.

B. Eligibility Requirements

1. The applicant must teach in a demonstrated area of need as evidenced by LEA-level workforce needs.

2. The applicant must have a baccalaureate degree from a regionally-accredited institution.

3. The applicant must possess passing scores on the Praxis core academic skills for educators in reading and writing examinations or appropriate scores on the ACT or SAT.

a. Applicants possessing a graduate degree from a regionally-accredited college or university will be exempted from the Praxis core academic skills for educators requirement.

4. The applicant must have at least a 2.20 GPA. The GPA may be calculated using the last 60 hours of coursework earned from a regionally-accredited university.

C. The employing school system must submit the application and provide an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued; that "there is no regularly certified, competent, and suitable person available for the position."

D. Renewal Requirements

1. TATs are valid for one year initially and may be renewed twice thereafter provided:

a. the applicant provides evidence that the required exam(s) for admission into a teacher preparation program has been taken at least twice within the validity period of the TAT;

b. the applicant provides evidence of meeting the standards of effectiveness pursuant to Bulletin 130;

c. the employing school system submits the application on behalf of the applicant and provides an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued; and

d. there is no regularly certified, competent, and suitable person available for the position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1803 (October 2006), amended LR 36:2547 (November 2010), LR 40:280 (February 2014), LR 44:2000 (November 2018).

Subchapter C. Ancillary Teaching Certificates

§348. Math for Professionals Certificate

A. …

B. Math for professionals certificate is valid for three years initially and allows an individual to teach one or more mathematics courses on a part-time basis.

1. - 1.a.i. …

ii. earned a master's degree in mathematics, engineering, or science content area; or

a.iii. - c. …

2. Renewal Requirements

a. TATs valid for three years initially and may be renewed thereafter for a period of five years at the request of an LEA.

b. For renewal of the certificate, a candidate must successfully meet the standards of effectiveness for at least three years during the initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:220 (February 2009), amended LR 39:1463 (June 2013), LR 40:281 (February 2014), LR 44:2000 (November 2018).

§349. Dyslexia Ancillary Certificate (Optional)

A. Dyslexia Practitioner. The optional dyslexia practitioner ancillary certificate is valid for five years and is issued to an individual to teach students with dyslexia.

1. Eligibility Requirements. Candidates shall:

a. hold a valid Louisiana teaching certificate; and

b. demonstrate completion of a multisensory-structured language training program accredited by a nationally-recognized accrediting organization, as posted on the LDE website, which shall include 45 hours of coursework and 60 hours of clinical work that is observed and monitored by a qualified professional; and

c. pass a multisensory-structured language education-related competency examination that is administered by a nationally-recognized professional organization that issues national certification.

2. Renewal Requirements. The certificate is valid for a period of five years and may be renewed thereafter at the request of the Louisiana employing authority.

a. Candidates shall successfully meet the standards of effectiveness for at least three years during the five-year renewal period pursuant to Bulletin 130 and R.S. 17:3902.

b. Candidates shall demonstrate that the certificate issued by a nationally-recognized professional organization is in good standing at the time the renewal is requested.

B. Dyslexia Therapist. The optional dyslexia therapist ancillary certificate is valid for five years and is issued to an individual to teach students with dyslexia.

1. Eligibility Requirements. Candidates shall:

a. hold a valid Louisiana teaching certificate; and

b. demonstrate completion of a multisensory-structured language training program accredited by a nationally-recognized accrediting organization, as posted to the LDE website, which shall include 200 hours of coursework and 700 hours of clinical work that is observed and monitored by a qualified professional; and

c. pass a multisensory-structured language education-related competency examination that is administered by a nationally-recognized professional organization, as posted on the LDE website, that issues national certification.

2. Renewal Requirements. The certificate is valid for a period of five years and may be renewed thereafter at the request of the Louisiana employing authority.

a. Candidates shall successfully meet the standards of effectiveness for at least three years during the five-year renewal period pursuant to Bulletin 130 and R.S. 17:3902.

b. Candidates shall demonstrate that the certificate issued by a nationally-recognized professional organization is in good standing at the time the renewal is requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:220 (February 2009), amended LR 39:1463 (June 2013), LR 40:281 (February 2014), LR 44:2001 (November 2018).

Chapter 4. Ancillary School Service Certificates

Subchapter A. General Ancillary School Certificates

§414. Mental Health Professional Counselor

A. …

1. Eligibility Requirements. Candidates shall:

a.i. hold current Louisiana licensure as a provisional licensed professional counselor in Louisiana (PLPC), in accordance with R.S. 37:1101 et seq.; or

ii. work under active supervision of a board-approved licensed professional counselor supervisor (BA LPC-S) (i.e., 1 hour of supervision per 20 client contact hours) and accrue 1,900 direct client contact hours, 1,000 indirect hours, and 100 clinical supervision hours under the board-approved licensed professional counselor supervisor (BA LPC-S);

b. - f. …

2. Renewal requirements are non-renewable.

B. …

1. Eligibility Requirements. Candidates shall:

a. hold current Louisiana licensure as a licensed professional counselor in Louisiana (LPC) or as a provisional-licensed professional counselor (PLPC) in accordance with R.S. 37:1101et seq.; or

1.b. - 2.a. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:881 (March 2011), amended LR 44:2001 (November 2018).

Chapter 6. Endorsements to Existing Certificates

Subchapter A. Regular Education Level and Area Endorsements

§605. Requirements to add Early Childhood (Grades PK-3)

A. - B. ...

1.a. prior to 9/1/15, a passing score for Praxis elementary education: content knowledge (0014 or 5014);

b. effective 9/1/15 to 8/31/17, a passing score for:

i. Praxis elementary education: content knowledge (5018); or

ii. Praxis elementary education: multiple subjects (5001);

c. mandatory 9/1/17, a passing score for Praxis elementary education: multiple subjects (5001);

2.a. a passing score for Praxis principles of learning and teaching early childhood (0621 or 5621); or

b. accumulate 12 credit hours of combined early childhood and kindergarten coursework;

3. nine semester hours of reading coursework or a passing score for Praxis teaching reading exam (0204 or 5204).

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1815 (October 2006), amended LR 37:883 (March 2011), repromulgated LR 37:1561 (June 2011), amended LR 37:3215 (November 2011), LR 38:44 (January 2012), LR 39:1464 (June 2013), LR 41:648 (April 2015), LR 41:918 (May 2015), LR 41:1270 (July 2015), LR 44:2001 (November 2018).

Chapter 8. Certification Appeal Process

§803. Appeal Process

A. ...

1. An appeal cannot be initiated until:

a. an applicant has submitted a complete certification application to the Department of Education, Division of Certification, Leadership, and Preparation;

b. the application is reviewed by a certification specialist; and

c. the applicant is notified that he/she is denied the requested certification.

2. ...

3. Appeals will not be considered for individuals who:

a. ...

b. lack a minimum grade point average of 2.50 for initial certification; or

c. - f. ...

g. are requesting issuance or renewal of a non-standard teaching certificate excluding the temporary authority to teach (TAT) certificate;

3.h. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1829 (October 2006), amended LR 36:487 (March 2010), LR 38:3140 (December 2012), LR 43:1314 (July 2017), LR 44:2002 (November 2018).

Chapter 9. Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates

§903. Definitions

A. ...

* * *

B. The following crimes are reported under R.S. 15:587.1:

1. R.S. 14:2(B), R.S. 14:30, R.S. 14:30.1, R.S. 14:31, 14:32.6, 14.32.7, 14:32.8, R.S. 14:41 through R.S.14:45, R.S. 14:46.2, R.S. 14:46.3, R.S. 14:46.4, R.S. 14:74, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:89.2, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:93.5, R.S. 14:106, R.S. 14:282, R.S. 14:283, R.S. 14:283.1, R.S. 14:284, R.S. 14:286, R.S. 15:541, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

2. those crimes of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with the responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection in the following table, and those under the federal criminal code in 18 USC, having analogous elements of criminal and moral turpitude.

Crimes Reported under R.S. 15:587.1	
* * *	
*R.S. 14:44.1	Second degree kidnapping
*R.S. 14:44.2	Aggravated kidnapping of a child
*R.S. 14:45	Simple kidnapping
*R.S. 14:46.2	Human trafficking
*R.S. 14:46.3	Trafficking of children for sexual purposes
*R.S. 14:46.4	Rehoming of a child
R.S. 14:74	Criminal neglect of family
* * *	
*R.S. 14:80	Felony Carnal knowledge of a juvenile
*R.S. 14:80.1	Misdemeanor carnal knowledge of a juvenile
*R.S. 14:81	Indecent behavior with a juvenile
* * *	
*R.S. 14:93	Cruelty to juveniles
*R.S. 14:93.5	Sexual battery of persons with infirmities
R.S. 14:93.2.1	Child desertion
* * *	
*Certificate issuance/reinstatement will never be considered for crimes marked with an asterisk.	

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 34:2559 (December 2008), LR 38:763 (March 2012), LR 44:265 (February 2018), LR 44:2002 (November 2018).

§905. Denial of Initial or Renewal Certificates

A. …

B. An application for a Louisiana teaching certificate or an application for a renewal of an expired teaching certificate shall be denied if the individual applying for the certificate has ever had any professional license/certificate related to the area of certification denied, suspended, revoked, or voluntarily surrendered.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1999 (September 2010), amended LR 38:763 (March 2012), LR 44:266 (February 2018), LR 44:2002 (November 2018).

§906. Issuance of a Denied Certificate

A. Issuance will never be considered for teachers who have been convicted of a felony for the following crimes:

1. R.S. 14:30, 14:30.1, 14:31, 14:32.6, 14:32.7, 14:32.8, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.1.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:46.2, 14:46.3, 14:46.4, 14:78, 14:78.1, 14:80, 14:80.1, 14:81, 14:81.1, 14:81.2, 14:81.3, 14.81.4,14:82 (in some instances), 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14.92 (in some instances), 14:93, 14:93.3, 14:93.5, 14:106, 14:283, and 14:286.

B. Issuance of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction or submission of fraudulent documentation, or the date of investigation results regarding the participation in cheating or professional license/certificate censure as noted in §905.B of this Chapter, which resulted in certification denial.

C. An applicant may apply to the board for the issuance of his/her Louisiana teaching certificate after the lapse of time indicated in Subsection B of this Section and under the following conditions.

1. There have been no further convictions, submission of fraudulent documentation, participation in cheating, or professional license/certificate censure.

C.2. - D. ...

1. Contact the office of the Board of Elementary and Secondary Education and request a records review for issuance of the certificate that was denied due to:

a. the submission of fraudulent documentation;

b. conviction for a crime listed in R.S. 15:587.1 or for any felony;

c. participation in cheating; or

d. professional license/certificate censure.

E. Board of Elementary and Secondary Education Responsibilities

1. - 2. …

3. The board reserves the right to accept or reject any document offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will determine if and when an applicant is eligible for issuance of a teaching certificate.

4. In accordance with R.S. 42:17(A)(1), the board may meet in executive session for discussion of the character, professional competence, or physical or mental health of a person.

5. The board may deny a request for a records review for any applicant who:

a. failed to disclose prior criminal convictions or expungements;

b. falsified academic records;

c. has been found to have participated in cheating in the administration of standardized tests;

d. received further criminal convictions or participated in cheating; or

e. has had additional professional license/certificate censure.

6. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate should be issued to the applicant. Board staff shall notify the applicant of the action of the board.

7. The action of the board is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1999 (September 2010), amended LR 38:763 (March 2012), LR 44:266 (February 2018), LR 44:2002 (November 2018).

§910. Suspension and Revocation of Certificates due to Professional License/Certificate Censure

A. A Louisiana teaching certificate may be suspended and or revoked if a teacher is found to have had a professional license/certificate related to the area of certification denied, suspended, revoked, or voluntarily surrendered.

B. The department shall investigate prior to determining that a teacher has had a professional license/certificate censured. Upon confirmation of the information investigated, the department shall notify the teacher in writing that his/her certificate has been suspended pending official board action per revocation proceedings.

1. Such records review shall be limited to the issue of whether or not the professional license/certificate has been censured. The teacher shall provide the board with any documentation that will refute the findings of the department investigation.

C. The committee of the board shall make a recommendation to the full board, based on documentation received from the department and the teacher, whether the teaching certificate should be revoked. The decision of the board shall be transmitted to the local school board and to the teacher affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 34:2560 (December 2008), LR 36:1999 (September 2010), LR 38:764 (March 2012), LR 44:268 (February 2018), LR 44:2003 (November 2018).

§911. Reinstatement of Suspended or Revoked Certificates

A. Reinstatement will never be considered for teachers who have been convicted of a felony for the following crimes:

1. R.S. 14:30, 14:30.1, 14:31, 14:32.6, 14:32.7, 14:32.8, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.1.1, 14:43.2, 14:43.3, 14:43.4 14:43.5, 14:44, 14:44.1, 14:45, 14:46.2, 14:46.3, 14:46.4, 14:78, 14:78.1, 14:80, 14:80.1, 14:81, 14:81.1, 14:81.2, 14:81.3, 14:81.4, 14:82 (in some instances), 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14:92 (in some instances), 14:93, 14:93.3, 14:93.5, 14:106, 14:283, and 14:286.

B. Reinstatements of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction, submission of fraudulent documentation, the date of investigation results regarding the participation in cheating, or professional license/certificate censure as noted in §905.B, which resulted in certification suspension and/or revocation.

C. An applicant may apply to the board for reinstatement of his/her Louisiana teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no further convictions, submission of fraudulent documentation, investigations regarding participation in cheating, or professional license/certificate censure as noted in §905.B of this Chapter.

C.2 - D.2. …

E. Board of Elementary and Secondary Education Responsibilities

1 - 2. …

3. The board reserves the right to accept or reject any document as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate.

4. In accordance with R.S. 42:17(A)(1), the board may meet in executive session for discussion of the character, professional competence, or physical or mental health of a person.

5. The board may deny any request for issuance by any applicant who:

a. failed to disclose prior criminal convictions or expungements;

b. falsified academic records;

c. has been found to have participated in cheating in the administration of standardized tests; or

d. received further criminal convictions or participated in cheating.

6. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate issued to the applicant should be issued, reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the board action.

7. The action of the board is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 34:2560 (December 2008), LR 36:1999 (September 2010), LR 38:764 (March 2012), LR 44:268 (February 2018), LR 44:2003 (November 2018).

Shan N. Davis
Executive Director

1811#030

RULE

Department of Health
Bureau of Health Services Financing

Dental Benefits Prepaid Ambulatory Health Plan
Independent Review Process for Provider Claims
(LAC 50:I.2117)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:I.2117 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. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part 1. Administration
Subpart 3. Managed Care for Physical and Behavioral Health
Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan
§2117. Independent Review Process for Dental Provider Claims

A. Right of Dentist Providers to Independent Review of Claims

1. Pursuant to Act 284 of the 2018 Regular Session of the Louisiana Legislature, for adverse determinations related to dental claims filed on or after November 20, 2018, a dentist/dental provider shall have a right to an independent review of the adverse action of the DBPM.

2. For purposes of these provisions, adverse determinations shall refer to dental claims submitted by healthcare providers for payment for dental services rendered to Medicaid enrollees and denied by the DBPM, in whole or in part, or more than 60 days have elapsed since the claim was submitted and the dentist has received no remittance advice or other written or electronic notice from the DBPM either partially or totally denying the claim.

B. Request for Reconsideration

1. Prior to submitting a request for independent review, a provider shall submit a written request for reconsideration to the DBPM, as provided for by the DBPM and in accordance with this Section. The request shall identify the claim(s) in dispute, the reasons for the dispute, and any documentation supporting the provider's position or request by the DBPM.

2. The DBPM shall acknowledge in writing its receipt of a reconsideration request submitted in accordance with §2117.B.1, within five calendar days after receipt, and render a final decision by providing a response to the provider within 45 calendar days from the date of receipt of the request for reconsideration, unless another time frame is agreed upon in writing by the dentist/dental provider and the DBPM.

3. If the DBPM reverses the adverse determination pursuant to a request for reconsideration, payment of the claim(s) in dispute shall be made no later than 20 days from the date of the DBPM's decision.

C. Independent Review of Dental Claims Requirements

1. If the DBPM upholds the adverse determination, or does not respond to the reconsideration request within the time frames allowed, the provider may file a written notice with the department requesting the adverse determination be submitted to an independent reviewer. The department must receive the written request from the provider for an independent review within 60 days from the date the provider receives the DBPM's notice of the decision of the reconsideration request, or if the DBPM does not respond to the reconsideration request within the time frames allowed, within 10 days of the last date of the time period allowed for the DBPM to respond.

2. The dentist/dental provider shall include a copy of the written request for reconsideration with the request for an independent review. The appropriate address to be used by the provider for submission of the request shall be Medicaid Dental Benefits Independent Review, P.O. Box 91283, Bin 32, Baton Rouge, LA 70821-9283.

3. Upon receipt of a notice of request for independent review and supporting information and documentation, the department shall refer the adverse determination to the dental claims review panel.

4. Subject to approval by the independent reviewer, a dentist/dental provider may aggregate multiple adverse determinations involving the same DBPM when the specific reason for nonpayment of the claims aggregated involve a dispute regarding a common substantive question of fact or law.

5. Within 14 calendar days of receipt of the request for independent review, the independent reviewer shall request to be provided all information and documentation submitted for reconsideration regarding the disputed claim or claims within 30 calendar days.

6. If the independent reviewer determines that guidance on an administrative issue from the department is required to make a decision, the reviewer shall refer this specific issue to the department for review and concise response to the request within 30 calendar days after receipt.

7. The independent reviewer shall examine all materials submitted and render a decision on the dispute within 60 calendar days. The independent reviewer may request in writing an extension of time from the dental claims review panel to resolve the dispute. If an extension of time is granted by the panel, the independent reviewer shall provide notice of the extension to the dental provider and the DBPM.

8. If the independent reviewer renders a decision requiring the DBPM to pay any claims or portion of the

claims, within 20 calendar days, the DBPM shall send the provider payment in full along with interest calculated back to the date the claim was originally denied or recouped.

D. Independent Review Costs

1. The DBPM shall pay the fee for an independent review to the Louisiana State University School of Dentistry. The dentist/dental provider shall, within 10 days of the date of the decision of the independent reviewer, reimburse the DBPM for the fee associated with conducting an independent review when the decision of the DBPM is upheld. If the provider fails to submit payment for the independent review within 10 days from the date of the decision, the DBPM may withhold future payments to the provider in an amount equal to the cost of the independent review, and the department may prohibit that provider from future participation in the independent review process.

2. If the DBPM fails to pay the bill for the independent reviewer's services, the reviewer may request payment directly from the department from any funds held by the state that are payable to the DBPM.

3. The fee for an independent review of a dental claim shall be paid in an amount established in a memorandum of understanding between the department and the Louisiana State University School of Dentistry, not to exceed $2,000 per review.

E. Dental Claims Review Panel

1. The dental claims review panel shall select and identify an appropriate number of independent reviewers to comprise a reviewer pool and continually review the number and outcome of requests for reconsideration and independent reviews on an aggregated basis.

2. The panel shall consist of the secretary or his/her duly designated representative, one representative from each DBPM, a number of dentist representatives equal to the number of representatives from DBPMs and the dean of the Louisiana State University School of Dentistry or his/her designee.

3. The reviewer pool selected by the dental claims review panel shall be comprised of dentists who are on the faculty of the Louisiana State University School of Dentistry and have agreed to applicable terms for compensation, confidentiality, and related provisions established by the department. The reviewer pool shall include:

a. For each of the following specialties, at least one dentist who has completed a residency approved by the Commission on Dental Accreditation in that specialty:

i. periodontics;
ii. endodontics;
iii. prosthodontics; and
iv. oral and maxillofacial surgery.

b. At least two dentists who have completed a residency approved by the Commission on Dental Accreditation in pediatric dentistry.

4. The reviewer pool shall not include any dentist who is currently performing compensated services for the DBPM, whether the compensation is paid directly or through a contract with the Louisiana State University School of Dentistry or other state entity, or has received any such compensation at any time in the prior 12 months.

5. The reviewer pool shall not include any dentist who has received reimbursement for dental services rendered to Medicaid patients in a private practice setting in the past 60 days.

a. Louisiana State University School of Dentistry clinics, including Louisiana State University School of Dentistry faculty practice, shall not be considered a private practice setting for the purposes of determining eligibility to participate in the reviewer pool.

6. No dentist shall be eligible to submit denied Medicaid claims for independent review while participating in the reviewer pool.

AUTHORITY NOTE: 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 44:2004 (November 2018).

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

1811#053

RULE

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

Home and Community-Based Services Waivers
Community Choices Waiver
(LAC 50:XXI.8101)

Editor's Note: This Section is being repromulgated to correct a citation error. The original Rule can be viewed in its entirety on pages 1896-1902 of the October 20, 2018 edition of the *Louisiana Register*.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XXI.8101 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. This Rule is adopted on the day of promulgation.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 7. Community Choices Waiver
Chapter 81. General Provisions
§8101. Introduction

A. The target population for the community choices waiver includes individuals who:

1. are 65 years of age or older; or
2. are 21-64 years of age with a physical disability; and
3. meet nursing facility level of care requirements.

4. Repealed.

B. - D.2.b. ...

3. No individual, unless granted an exception by OAAS, may concurrently serve as a responsible representative for more than two participants in OAAS-operated Medicaid home and community-based service programs. This includes but is not limited to:

a. - 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 and the Office of Aging and Adult Services, LR 37:3517 (December 2011), amended LR 40:791 (April 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1896 (October 2018), repromulgated LR 44:2005 (November 2018).

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 Serves (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH
Secretary

1811#052

RULE

Department of Health
Bureau of Health Services Financing

Home Health Program
Durable Medical Equipment
Pharmacy Provider Accreditation
(LAC 50:XIII.8501)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XIII.8501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

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

A. - B. ...

C. Pharmacies. These accreditation requirements do not apply to pharmacies that provide medical equipment, supplies and appliances.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:512 (March 2010), amended LR 37:2159 (July 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 44:2006 (November 2018).

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

1811#054

RULE

Department of Health
Bureau of Health Services Financing

Medicaid Employee Criminal History Records Checks
(LAC 50:I.103)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:I.103 as authorized by R.S. 36:254 and 254.3, 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. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 1. General Provisions
Chapter 1. Administrative Procedures
§103. Employee Criminal History Records Checks

A. Pursuant to Act 147 of the 2017 Regular Session of the Louisiana Legislature, the Department of Health (the "department") shall perform criminal history records checks of current and prospective employees, contractors or subcontractors, within the Medicaid eligibility section, that have access to federal tax information (FTI) and/or criminal history record information.

1. In compliance with the requirements of R.S. 15.587.5, current or prospective employees, contractors or subcontractors within the Medicaid eligibility section shall be required to submit to a criminal history records check to be conducted by the Louisiana Bureau of Criminal Identification and Information.

a. Fingerprints and other identifying information shall be submitted to the Louisiana Bureau of Criminal Identification and Information by the current or prospective employee, contractor or subcontractor.

2. The department shall also request local criminal history records checks for current or prospective employees, contractors or subcontractors within the Medicaid eligibility section with access to FTI and/or criminal history record information.

a. The local criminal history records checks request shall be sent to any jurisdiction where the current or prospective employee, contractor or subcontractor has lived, worked or attended school within the last five years.

3. Fingerprinting and national, state and local criminal history records checks shall be used by the department to determine the suitability of current or prospective employees, contractors or subcontractors within the Medicaid eligibility section to access federal tax information and records.

a. Prospective employees shall be subject to fingerprinting and national, state and local criminal history records checks only after a conditional offer of employment has been made.

b. Current employees, contractors and subcontractors shall be subject to fingerprinting and national, state and local criminal history records checks at a minimum of every 10 years.

4. The costs of providing the criminal history records check for current employees, contractors or subcontractor within the Medicaid eligibility section shall be charged to the department by the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in its criminal history and identification files, including any additional costs of providing the national and local criminal history records checks, which pertains to the current or prospective employee, contractor or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 254.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:2006 (November 2018).

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

1811#056

RULE

Department of Health
Board of Dentistry

Dental Hygienists (LAC 46:XXXIII.701)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health, Board of Dentistry has amended LAC 46:XXXIII.701. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 7. Dental Hygienists
§701. Authorized Duties

A. - G. …

1. No entity may employ dental hygienists to provide treatment for patients of record under general supervision other than:

a. a public institution that has supervision by a Louisiana licensed dentist;

b. a nonprofit entity that meets the statutory, regulatory and program requirements for grantees supported under Section 330 of the Public Health Service Act (42 U.S.C. §254b or its successor) and that has supervision by a Louisiana licensed dentist;

c. a school that has supervision by a Louisiana licensed dentist, or

d. an office owned by a dentist or group of dentists licensed in Louisiana.

2. …

3. No duly licensed and registered dentist shall supervise a dental hygienist for more than five consecutive business days or for more than 20 total days in any calendar year. These limits do not apply to a hygienist working at a school or public institution.

4. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006), LR 37:590 (February 2011), LR 37:1406 (May 2011), amended by the Department of Health, Board of Dentistry LR 43:48 (January 2017), LR 44:2007 (November 2018).

Arthur Hickham, Jr.
Executive Director

1811#051

RULE

Department of Health
Licensed Professional Counselors Board of Examiners

Diagnosing for Serious Mental Illnesses
(LAC 46:LX.505 and 3107)

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners repeals rules relative to the Practice of Mental Health Counseling, designated as Section 505 and 3107 of Board Rules. Previously, Section 505 and Section 3107 of Board Rules were promulgated due to Act 736/636 which limited the scope of practice by requiring consultation and collaboration regarding certain identified "serious mental illnesses". On June 14, 2017 Act 235 repealed this portion of Act 736/636 and now enables LPCs and LMFTs to practice without required consultation and collaboration. This Rule repeals these two Sections and is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED
Part LX. Licensed Professional Counselors Board of Examiners
Subpart 1. Licensed Professional Counselors
Chapter 5. License and Practice of Counseling
§505. Serious Mental Illnesses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1105(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 39:1784 (July 2013), amended LR 41:711 (April 2015), repealed LR 44:2007 (November 2018).

§3107. Serious Mental Illness

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1981 (October 2017), repealed LR 44:2008 (November 2018).

Jamie S. Doming
Executive Director

1811#007

RULE

Department of Insurance
Office of the Commissioner

Regulation 78—Policy Form Filing Requirements
(LAC 37:XIII.Chapter 101)

The Department of Insurance, pursuant to the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 78—Policy Form Filing Requirements.

The regulation has been amended to provide uniform and consistent procedures regarding the withdrawal of a previously approved policy form filing and the filing fee associated with the change of a company's name, logo, address or officers.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 101. Regulation 78—Policy Form Filing Requirements

§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters

A. - I.1 …

a. Prior to withdrawing approval of a filing previously granted, the department will notify the affected insurer in writing of the alleged violation or irregularity. That insurer will then have 15 days to show that the disputed forms are in compliance with the *Louisiana Insurance Code*. If the affected insurer is unable to show compliance, the department will then proceed with issuing the notice of withdrawal of approval.

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be made to the Division of Administrative Law and to the Department of Insurance, pursuant to R.S. 22:2191.

c. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

I.2. - K.2 …

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S.22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002), amended LR 33:105 (January 2007), LR 42:1947 (November 2016), amended LR 44:2008 (November 2018).

§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. - I.1. …

a. Prior to withdrawing approval of a filing previously granted, the department will notify the affected insurer in writing of the alleged violation or irregularity. That insurer will then have 15 days to show that the disputed forms are in compliance with the *Louisiana Insurance Code*. If the affected insurer is unable to show compliance, the department will then proceed with issuing the notice of withdrawal of approval.

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be made to the Division of Administrative Law and to the Department of Insurance, pursuant to R.S. 22:2191.

c. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

I.2. - K.3 …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002), amended LR 33:108 (January 2007), LR 42:1952 (November 2016), amended LR 44:2008 (November 2018).

§10119. Effective Date
[Formerly §10117]

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007), LR 42:1957 (November 2016), repromulgated LR 44:2008 (November 2018).

James J. Donelon
Commissioner

1811#008

RULE

Department of Insurance
Office of the Commissioner

Regulation 106—Replacement of Limited Benefit Insurance Policies (LAC 37:XIII.Chapter 149)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and R.S. 22:1964 the Department of Insurance has adopted Regulation 106 to implement the provisions of Act 844, of the 2014 Regular Session of the Louisiana Legislature, which prohibits deliberate use of misrepresentation or false statements by insurance producers for the purpose of convincing a customer to replace a limited benefit insurance policy and directs the Commissioner of Insurance to promulgate rules and/or regulations addressing the replacement of limited benefit insurance policies as defined in R.S. 22:47(2)(c). This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 149. Regulation Number 106—Replacement of Limited Benefit Insurance Policies

§14901. Purpose

A. Regulation 106 implements the provisions of Act 844, of the 2014 Regular Session of the Louisiana Legislature, specifically R.S. 22:1964(27) which mandates that the Department of Insurance promulgate rules and/or regulations addressing the replacement of limited benefit insurance policies as defined in R.S. 22:47(2)(c).

B. The purpose of this regulation is:

1. to regulate the activities of insurers and producers with respect to the replacement of limited benefit insurance policies;

2. to protect the interests of limited benefit insurance policy purchasers by establishing minimum standards of conduct to be observed in a replacement transaction. It will:

a. assure that purchasers receive information with which a decision can be made in his or her own best interest;

b. reduce deliberate use of misrepresentation or false statements in the sale of limited benefit replacement policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2009 (November 2018).

§14903. Applicability and Scope

A. Regulation 106 shall apply to transactions in the individual market involving existing limited benefit polices and the new sale of limited benefit insurance policies where it is known or should be known to the producer, or to the insurer if there is no producer that the sale of the limited benefit insurance policy will result in the replacement of an existing policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2009 (November 2018).

§14905. Authority

A. Regulation 106 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:1 et seq., particularly R.S. 22:11, and specifically R.S. 22:1964(27).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2009 (November 2018).

§14907. Definitions

A. For the purposes of Regulation 106 the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Commissioner—the Commissioner of Insurance of the Louisiana Department of Insurance.

Existing Policy—an in-force limited benefit insurance policy or contract of insurance.

Insurer—as defined in R.S. 22:1962(C).

Limited Benefit Policy—any health and accident insurance policy designed, advertised, and marketed to supplement major medical insurance that includes accident-only, the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision, and any other health and accident insurance, other than basic hospital expense, basic medical-surgical expense, or other major medical insurance or as defined in R.S. 22:47(2)(c).

Producer—a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance and includes all persons or business entities otherwise referred to in the Title 22 of the Louisiana Revised Statutes as "insurance agent", "agent", "insurance broker", "broker", "insurance solicitor", "solicitor", or "surplus lines broker".

Replacement—a transaction in which a new policy or contract of insurance is to be purchased, and it is known or should be known to the producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract of insurance has been or is to be lapsed, forfeited, surrendered or otherwise terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2009 (November 2018).

§14909. Exemptions

A. Unless otherwise specifically included, this regulation shall not apply to transactions involving:

1. group and blanket group limited benefit policies;
2. medicare supplement policies;
3. long term care policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2009 (November 2018).

§14911. Duties of Insurers and Producers

A. An application form submitted by an insurer or his producer for a limited benefits policy shall include a question designed to elicit information as to whether the insurance to be issued is intended to replace any other limited benefit insurance policy presently in force.

1. If the applicant indicates that there are no existing policies to be replaced, then the producer's and insurer's duties with respect to replacement are complete.

2. If the applicant indicates that there are existing policies, the producer shall present to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form notice as described in Appendix A or such other form notice provided by the insurer and approved by the Commissioner of Insurance. The notice shall be signed by the applicant attesting that the notice has been received by the applicant and that the applicant understands that he/she is replacing an existing policy.

3. Notwithstanding Paragraph A.2 of this Section, when the sales presentation is conducted by electronic means and all signatures are obtained via electronic signature technology, the meaning of "at the time of taking the application" shall be extended to allow for the producer's submission of electronic information to the insurer. The requirements of Paragraph A.2 of this Section are deemed met when a copy of the required replacement notice electronically signed at the presentation is provided to the applicant within five business days following submission of the policy or contract of insurance to the insurer. The notice may be provided to the applicant by electronic means exclusively only if the applicant has chosen the option to receive it exclusively by electronic means. In no event shall the time for providing the notice exceed seven business days from the date the applicant signed the application.

B. In connection with a replacement transaction, the producer shall submit to the insurer to which an application for a policy is presented, a copy of each document required by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2009 (November 2018).

§14913. Duties of Direct Response Insurers

A. Direct response insurers shall deliver to the applicant, upon acceptance of the application and prior to the issuance of the policy, the notice described in Appendix B or other substantially similar form notice approved by the Commissioner of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2010 (November 2018).

§14915. Violations and Penalties

A. Any failure to comply with this regulation shall be considered a violation of R.S. 22:1964. Violations of this regulation shall subject the violators to penalties as provided by R.S. 22:1969, 1970 and any other applicable provisions of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2010 (November 2018).

§14917. Effective Date

A. Regulation 106 shall become effective upon final publication in the *Louisiana Register* and shall apply to any act or practice committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2010 (November 2018).

§14919. Severability

A. If any Section or provision of Regulation 106 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 106 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of Regulation 106 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2010 (November 2018).

§14921. Appendix A—Notice Required by §14911.A.2

Notice to Applicant Regarding Replacement of Limited Benefit Insurance

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing limited benefit insurance and replace it with a policy to be issued by [insert company name] Insurance Company. For your own information and protection, you should be aware of and seriously consider certain factors that may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have, (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits present under the new policy, whereas a similar claim might have been payable under your present policy.

2. You may wish to secure the advice of your present insurer or its producer regarding the proposed replacement of your present policy. This is not only your right but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

3. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

4. _____ By checking this blank, I agree to receive this notice exclusively by electronic means only.

The above "Notice to Applicant" was delivered to me on: _____

Applicant's Signature _____

Date _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2010 (November 2018).

§14923. Appendix B—Notice Required by §14913.A

Notice to Applicant Regarding Replacement of Limited Benefit Insurance

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing limited benefit insurance and replace it with a policy to be issued by [insert company name] Insurance Company. Your new policy provides thirty days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider

certain factors that may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have, (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits present under the new policy, whereas a similar claim might have been payable under your present policy.

2. You may wish to secure the advice of your present insurer or its producer regarding the proposed replacement of your present policy. This is not only your right but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

3. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

[Company Name] _____

Date Mailed or Provided to Applicant _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2010 (November 2018).

James J. Donelon
Commissioner

1811#004

RULE

Department of Insurance
Office of the Commissioner

Regulation 110—Declaratory Orders
(LAC 37:XIII.Chapter 157)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has adopted Regulation 110—Declaratory Orders.

R.S. 49:962 provides that "each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency." Additionally, R.S. 22:2(E) provides that "the commissioner of insurance shall have the authority to make reasonable rules and regulations, not inconsistent with law, to enforce, carry out, and make effective the implementation of this Code." The purpose of Regulation 110 is to define declaratory orders and to provide for the filing and prompt disposition of petitions for declaratory orders. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 157. Regulation 110—Declaratory Orders
§15701. Purpose

A. The purpose of Regulation 110 is to define declaratory orders and to provide for the filing and prompt disposition of declaratory orders, as authorized by R.S. 49:962.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2011 (November 2018).

§15703. Definitions

A. As used in Regulation 110, the following terms shall have the meanings specified.

Commissioner—the commissioner of the Louisiana Department of Insurance.

Department—the Louisiana Department of Insurance.

Declaratory Order—a written statement issued by the department at the request of a person regulated by the department as to the applicability of any statutory provision or of any rule or order of the agency.

Litigation—involvement in any civil, criminal, administrative, regulatory, or disciplinary proceeding or action.

Person—any individual, company, insurer, association, organization, reciprocal or inter-insurance exchange, partnership, business, trust, limited liability company, or corporation regulated by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2011 (November 2018).

§15705. Declaratory Orders, Generally

A. A declaratory order is not an agency rule or regulation but shall have the same status as a final agency decision or an order in an adjudicated case.

B. A declaratory order shall have effect only upon the person requesting it and the commissioner and shall continue in effect unless a subsequent bulletin, advisory letter, directive, rule/regulation, court case, or statute supersedes it, or until the commissioner rescinds it. If a declaratory order is superseded or rescinded, such action shall have effect prospectively only, and the declaratory order shall cease to be effective as of 30 days after the date of the action that superseded or rescinded it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2011 (November 2018).

§15707. Disposal of Petitions; Form; Reasons to Issue or not Issue Declaratory Orders

A. The commissioner shall decide within 60 days after the filing of a petition for a declaratory order whether to accept or reject the petition.

B. A petition for a declaratory order shall be submitted in writing to the commissioner, in the manner specified on the department's website, by a person regulated by the department or the person's legal representative. Petitions shall contain the following information:

1. the title of the petition (e.g., "Petition for Declaratory Order");

2. the name, address, and telephone number of the person regulated by the department requesting the declaratory order;

3. a power of attorney or mandate, if the person is represented by a third party;

4. specific questions to be answered or issues to be addressed;

5. complete statement of all relevant facts;

6. citations to or copies of relevant statutes, rules/regulations, or orders of the department at issue, and, if the petitioner takes a specific position on the issue, the arguments, reasons, and provisions of law supporting such position;

7. copies of all relevant documents; and

8. a signed statement stating to the best of the person's knowledge:

a. whether the person requesting the declaratory order has the same issue under examination or review with the department or any other insurance regulator;

b. whether the person requesting the declaratory order has been notified in writing that an examination with the department or any other insurance regulator is pending;

c. whether the person requesting the declaratory order is litigating the issue in the state of Louisiana or is aware of the person's involvement in litigation on the same issue in other jurisdictions;

d. whether the department or any other insurance regulator has previously issued a declaratory order or ruling, no-action letter, or similar declaratory statement on the same issue (with a copy attached);

e. whether the attorney general has been, or will be, requested to issue an opinion concerning the issue prior to the issuance of the declaratory order; and

f. that, prior to the issuance of a declaratory order, if the requesting person is notified of a pending examination by the department or any other insurance regulator, the requesting person will notify the commissioner of the pending examination.

C. A petition for a declaratory order may not be used to delay or interrupt an examination.

D. Reasons for issuing a declaratory order may include but not be limited to:

1. it has been requested by a person regulated by the department, or the person's representative who has a power of attorney or mandate; and

2. the law and rules/regulations or department's orders are not clear.

E. Reasons for not issuing a declaratory order may include but not be limited to:

1. the law and rules/regulations or department's orders are clear;

2. a rule/regulation would be more appropriate under the Administrative Procedure Act;

3. the inquiry concerns alternative fact scenarios, speculative or supposed facts, or purely hypothetical situations;

4. the inquiry concerns matters scheduled for an examination or currently involved in an examination, appeal, or litigation;

5. the inquiry concerns an issue that is being litigated or may be litigated in the near future;

6. the request is incomplete because it does not contain all of the information required by §15707.B;

7. the request can best be handled by another means, such as through issuance of a bulletin, advisory letter, directive, or rule/regulation; or

8. the requesting person withdraws the request at any point prior to issuance of the declaratory order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2011 (November 2018).

§15709. Rescissions

A. The commissioner reserves the right to change positions reflected in prior declaratory orders. If a declaratory order is rescinded due to a change in the commissioner's position, the rescinded declaratory order ceases to be effective as of 30 days after the date of the rescission.

B. If a declaratory order is rescinded and is subsequently reissued due to a change in the commissioner's position, the rescinded declaratory order ceases to be effective as of 30 days after the date of the rescission, and the reissued declaratory order shall be effective as of the effective date of the rescission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2012 (November 2018).

§15711. Confidential or Privileged Treatment

A. The commissioner shall maintain as confidential or privileged any documents, materials, or other information submitted with or included in a petition for a declaratory order that are required to be maintained as confidential or privileged pursuant to any provision of Title 22 of the Revised Statutes, any exception to the Public Records Law (R.S. 44:1 et seq.), or any applicable federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2012 (November 2018).

§15713. Effective Date

A. Regulation 110 shall become effective upon promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2012 (November 2018).

§15715. Severability

A. If any Section or provision of Regulation 110 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 110 to any persons or circumstances that can be given effect without the invalid section or provision or application, and, for these purposes, the Sections and provisions of Regulation 110 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2012 (November 2018).

James J. Donelon
Commissioner

1811#009

RULE

Department of Natural Resources
Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation has amended LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The action has adopted Statewide Order No. 29-R-18/19 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection of application, production, and regulatory fees, and will replace the existing Statewide Order No. 29-R-17/18. This Rule is hereby adopted on the day of promulgation.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

* * *

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 18.0.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404 (November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:3099 (November 2013), 40:2266 (November 2014), LR 41:2376 (November 2015), LR 42:1957 (November 2016), LR 43:2191 (November 2017), LR 44:2013 (November 2018).

§703. Fee Schedule for Fiscal Year 2016-2017 and Thereafter

A. …

* * *

B. Regulatory Fees. $2,187,500 CAP divided by a number equal to (number of non-exempt class II wells + number of Class III wells + number of storage wells) + (number of Type A facilities X 10 plus number of Permits to Construct Type A facilities X 5) + (number of Type B facilities X 5 plus number of Permits to Construct Type B facilities X 2.5)

1. The resulting value will equal the annual regulatory fee for non-exempt Class II wells, Class III wells, and storage wells.

2. The annual regulatory fee for Type A facilities will be the non-exempt Class II well, Class III well, and storage well regulatory fee times a factor of 10.

3. The annual regulatory fee for Type A facility Permits to Construct will be the non-exempt Class II well, Class III well, and storage well regulatory fee times a factor of 5.

4. The annual regulatory fee for Type B facilities will be the non-exempt Class II well, Class III well, and storage well regulatory fee times a factor of 5.

5. The annual regulatory fee for Type B facility Permits to Construct will be the non-exempt Class II well, Class III well, and storage well regulatory fee times a factor of 2.5.

6. Conservation will perform this calculation annually and will post the individual Regulatory Fee Amount on the DNR Website.

C. Class I Well Fees: Operators of permitted Class I wells are required to pay

1. $1,000,000 CAP divided by a number equal to the number of active Class I wells plus the number of Permits to Construct Class I wells X 0.5.

2. Conservation will perform this calculation annually and will post the individual Regulatory Fee Amount on the DNR Website.

D. - D.5. …

E. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers.

Tier	Annual Production (Barrel Oil Equivalent)	Fee ($ per Well)
Tier 1	0	26
Tier 2	1 - 5,000	154
Tier 3	5,001 - 15,000	439
Tier 4	15,001 - 30,000	734
Tier 5	30,001 - 60,000	1,151
Tier 6	60,001 - 110,000	1,601
Tier 7	110,001 - 9,999,999	2,004

F. - G.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:2405 (November 2008), LR 35:2463 (November 2009), LR 36:2569 (November 2010), LR 37:3273 (November 2011), LR 38:2931 (November 2012), LR 39:3099 (November 2013), LR 40:2267 (November 2014), LR 41:2378 (November 2015), LR 42:1958 (November 2016), LR 43:2191 (November 2017), LR 44:2013 (November 2018).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-18/19 and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect

without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R-18/19) supersedes Statewide Order No. 29-R-17/18 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:2267 (November 2014), LR 41:2379 (November 2015), LR 42:1959 (November 2016), LR 43: 2191 (November 2017), LR 44:2013 (November 2018).

Richard P. Ieyoub
Commissioner

1811#012

RULE

Department of Public Safety and Corrections
Gaming Control Board

Casino Computer Systems
(LAC 42:III.2717, 2723, and Chapter 28)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice that it has adopted LAC 42:III.Chapter 28, Casino Computer Systems. This will include a regulation reorganization by consolidating Subsection N of §2717, Subsection Q of §2723, and §4205, all located in LAC 42:III, within the new Chapter 28 of LAC 42:III, as the changes create uniformity so that all data breach and information systems can be in a consolidated Chapter.

The Gaming Control Board has amended LAC 42:III.2717 by repealing Subsection N and replacing Subsection O as the new Subsection N. The amendment will maintain the division's access to all of information pertaining to table games that is maintained by the licensees. Further, the Gaming Control Board has amended LAC 42:III.2723 by repealing Subsection Q and replacing Subsection R as the new subsection Q and by replacing Subsection S as the new Subsection R. Additionally, the Gaming Control Board has repealed LAC 42:III.4205 as part of the regulation reorganization into LAC 42:III.Chapter 28.

The Sections in Chapter 28 have been promulgated in order to protect patron data from data breaches. With the advancements in technology, riverboat licensees and the casino operator are using computer systems to keep track of all player data and rewards, and credit information when issuing markers. Due to this, they are collecting massive amounts of confidential data on patrons. The rules do not currently address how the licensees should protect this data and what system protections they should have. Considering recent data breaches among companies nationwide, the board and division deemed it necessary to implement rules to safeguard the confidential information. This Rule is hereby adopted on the day of promulgation.

Title 42
LOUISIANA GAMING
Part III. Gaming Control Board

Chapter 27. Accounting Regulations

§2717. Internal Controls; Table Games

A - M.1. …

N. Table Games Records

1. Each licensee and casino operator shall maintain records and reports reflecting drop, win and drop hold percentage by table and type of game by day, cumulative month-to-date, and cumulative year-to-date. The reports shall be presented to and reviewed by management independent of the pit department on at least a monthly basis. The independent management shall investigate any unusual statistical fluctuations with pit supervisory personnel. At a minimum, investigations are performed for all statistical percentage fluctuations from the base level for a month in excess of plus or minus three percentage points. The base level is defined as the licensee's or casino operator's statistical win to statistical drop percentage for the previous business year. The results of such investigations shall be documented in writing and maintained for at least five years by the licensee.

2. The division shall have access to all information pertaining to table games.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1635 (July 2012), amended LR 44:2014 (November 2018).

§2723. Internal Controls; Slots

A. - P.1. …

Q. The accounting department shall perform the following audit procedures relative to slot operations:

1. collect jackpot and hopper fill slips, computerized and manual, and other paperwork daily from the locked accounting box and the cashier cage or as otherwise approved by the division;

2. review jackpot and fill slips daily for continuous sequence. Ensure that proper procedures were used to void slips. Investigate all missing slips and errors. Document the investigation and retain the results for a minimum of five years;

3. manually add, on a daily basis, all jackpot and fill slips and trace the totals from the slips to the system-generated totals. Document all variances and retain the documentation for five years;

4. collect the hard count and currency acceptor count results from the count teams and compare the actual count to the system-generated meter reports on a daily basis;

5. prepare reports of their daily comparisons by device, by denomination, and in total of the actual count for hard and soft count to system-generated totals. Report variance(s) of $100 or greater to the slot department for investigation. Maintain a copy of these reports for five years;

6. compare a listing of slot machine numbers scheduled to be dropped to a listing of slot machine numbers actually

counted to ensure that all drop buckets and currency acceptors are accounted for during each drop period;

7. immediately investigate any variance of 2 percent or more per denomination between the weigh or count and wrap. Document and maintain the results of such investigation for five years;

8. compare 10 percent of jackpot and hopper fill slips to signature cards for proper signatures one day each month;

9. compare the weigh tape to the system-generated weigh, as recorded in the slot statistical report at least one drop period per month. Resolve any discrepancies prior to generation and distribution of slot reports to management;

10. review the weigh scale tape of one gaming day each quarter to ensure that:

a. all electronic gaming device numbers were properly included;

b. only valid identification numbers were accepted;

c. all errors were investigated and properly documented, if applicable;

d. the weigh scale correctly calculated the dollar value of coins; and

e. all discrepancies are documented and the documentation is maintained for a minimum of five years;

11. verify the continuing accuracy of the coin-in meter readings as recorded in the slot statistical report at least monthly;

12. compare the "bill-in" meter reading to the currency acceptor drop amount at least monthly. Discrepancies shall be resolved prior to the generation and distribution of slot statistical reports to management;

13. maintain a personnel access listing for all computerized slot systems which includes, at a minimum:

a. employee name;

b. employee identification number, or equivalent; and

c. listing of functions the employee can perform or equivalent means of identifying same;

14. review sensitive key logs. Investigate and document any omissions and any instances in which these keys are not signed out and signed in by the same individual;

15. on a daily basis, review exceptions, jackpot overrides, and verification reports for all computerized slot systems, including tokens, coins and currency acceptors, for propriety of transactions and unusual occurrences. These exception reports shall include the following:

a. cash variance which compares actual cash to metered cash by machine, by denomination and in total;

b. drop comparison which compares the drop meter to weigh scale by machine, by denomination and in total.

R. Slot Department Requirements

1. The slot booths, change banks, and change banks incorporated in beverage bars (bar banks) shall be counted down and reconciled each shift utilizing appropriate accountability documentation.

2. The wrapping of loose slot booth and cashier cage coin shall be performed at a time or location that does not interfere with the hard count process or the accountability of that process.

3. A record shall be maintained evidencing the transfers of unwrapped coin.

4. Slot booth, change bank, and bar bank token and chip storage cabinets and drawers shall be constructed to provide maximum security of the chips and tokens.

5. Each station shall have a separate lock and shall be keyed differently.

6. Slot booth, change bank, and bar bank cabinet and drawer keys shall be maintained by the supervisor and issued to the change employee assigned to sell chips and tokens. Issuance of these keys shall be evidenced by a key log, which shall be signed by the change employee to whom the key is issued. All slot booth, change bank, and bar bank keys shall be returned to the supervisor at the end of each shift. The return of these keys shall be evidenced on the key log, which shall be signed by the cage employee to whom the key was previously issued. The key log shall include:

a. the change employee's employee number and signature;

b. the date and time the key is signed out; and

c. the date and time the key is returned.

7. At the end of each shift, the outgoing and incoming change employee shall count the bank. The outgoing employee shall fill out a count sheet, which shall include opening and closing inventories listing all currency, coin, tokens, chips and other supporting documentation. The count sheet shall be signed by both employees.

8. In the event there is no incoming change employee, the supervisor shall count and verify the closing inventory of the slot booth, change bank, and bar bank.

9. Increases and decreases to the slot booths, change banks, and bar banks shall be supported by written documentation signed by the cage cashier and the slot booth, change bank, or bar bank employee.

10. The slot department or MIS shall maintain documentation of system-related problems, including, but not limited to, system failures, extreme values for no apparent reason, and problems with data collection units, and document the follow-up procedures performed. Documentation shall include at a minimum:

a. date the problem was identified;

b. description of the problem;

c. name and position of person who identified the problem;

d. name and position of person(s) performing the follow up;

e. date the problem was corrected; and

f. how the problem was corrected.

11. The slot department shall investigate all meter variances received from accounting. Copies of the results of the slot department's investigation shall be retained by the accounting department for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1641 (July 2012), amended LR 44:2014 (November 2018).

Chapter 28. Casino Computer Systems

§2801. Protection and Security of Information and Information Systems

A. This Chapter applies to all systems of an operation that includes a casino and common ownership, except that any non-gaming systems that are segregated from any and all gaming systems and from which one cannot access any

gaming systems shall be exempt from the provisions of this section. The requirements in this Chapter are in addition to

existing state and federal regulations. Unrelated third party operating systems independent from the licensee, casino operator, and other related businesses are responsible for protecting patron information in accordance with state and federal laws and regulations.

B. Each licensee and casino operator shall:

1. implement an information security program that addresses the managerial, operational, and technical aspects of protecting information and information systems; and

2. develop, document, audit, and enforce an information security plan consisting of policies, guidelines, standards, processes, and procedures in accordance with the law and regulation. The policy shall include a risk assessment designed to, among other things, identify threats and vulnerabilities and methods to mitigate the associated risks. Additionally, the policy shall include controls over both timing (preventive, detective, and corrective) and nature (administrative, technical, and physical).

C. Computer systems shall be designed and implemented to safeguard the security, confidentiality, integrity, and availability of information systems and the information processed, stored, and transmitted by those systems to prevent security incidents. A security incident is any attempted or successful occurrence that jeopardizes the security, confidentiality, integrity, or availability of information systems and the information processed, stored, or transmitted by those systems. A security incident includes, but is not limited to: the unauthorized release of data (including personal patron data) collected, stored, and/or maintained by a licensee and casino operator; unavailability or degradation of services; misappropriation or theft of information or services; and modification or destruction of systems or information.

D.1.A licensee and casino operator shall:

a. identify and correct information and information system defects in a timely manner;

b. provide protection from malicious code at appropriate locations within the casino's information systems; and

c. monitor information system security alerts and advisories and take appropriate actions in response thereto.

2. The network system shall have the capacity to detect and display the following conditions:

a. power reset or failure of any network component;

b. communication loss between any network components; and

c. authentication failure.

3. Any defects or anomalous conditions shall be recorded in an error log that shall be displayed or printed upon demand by the board or division and shall be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2015 (November 2018).

§2803. Assessment Audits

A. A licensee and casino operator shall develop and maintain computer systems and procedures in compliance with standards recognized as industry accepted "information security standard" as selected by the licensee or casino operator.

B. A licensee and casino operator shall, no later than 36 months from its last assessment, submit the results of an independent network security risk assessment to the division for review, subject to the following requirements:

1. the testing organization must be independent of the licensee and casino operator;

2. results from the network security risk assessment shall be submitted to the division no later than 90 days after the assessment is conducted.

C. At the discretion of the division, additional network security risk assessments may be required.

D. A licensee and casino operator shall periodically, but no later than 36 months from its last assessment, assess the risk to operations, assets, patrons, employees, and other individuals or entities resulting from the operation of the casino's computer systems and the processing, storage, or transmission of information and data. The assessment shall be documented and recorded in a manner that can be displayed or printed upon demand by the board or division and shall be maintained for a period of five years. Licensees and casino operators shall assess the collection of personnel and patron data annually to ensure that only information necessary for the operation of the business is collected and maintained. No unnecessary personal information shall be retained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2016 (November 2018).

§2805. Notification and Response Time

A. A licensee and casino operator shall provide written notice of the following to the division within 24 hours:

1. discovery that a system or data has been compromised;

2. suspicion or notification from outside sources that a system or data may have been compromised; or

3. determination that a system or data has been otherwise accessed or released without proper authorization.

B. Confirmed breaches of any systems related to the Louisiana properties or any other company owned by common ownership shall be disclosed to the board with 24 hours of confirmation. The notification shall provide all known details at the time of notification including, but not limited to, the location(s) affected and the process that will be used to move forward with the investigation.

C. Upon confirming any release of personal patron data, the licensee and casino operator shall notify the patron(s) affected in accordance with R.S. 51:3074 and notify the board immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2016 (November 2018).

§2807. Incident Response Plan

A. To ensure that computer systems and network security threats are responded to in a timely and effective manner, an operational incident response plan shall be developed, implemented, and maintained. Licensees and casino operators shall reference the incident response plan in their internal controls, but the plan shall be maintained outside the internal controls to ensure it is updated.

B. The incident response plan shall:

1. detail adequate preparation, detection, analysis, containment, recovery, and response activities;

2. define roles and responsibilities in the event of a security incident;

3. include measures for tracking, documenting, and reporting security incidents to appropriate officials and/or authorities and the division;

4. have a definitive communication plan including both internal and external communication; and

5. be formally documented and tested every three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2016 (November 2018).

§2809. Limited Access to Information Systems and Networking Devices

A. A licensee and casino operator shall:

1. ensure that individuals occupying positions with access to sensitive computer hardware, software, or business personnel or patron data including, but not limited to, third-party service providers meet documented security criteria for such positions;

2. ensure that information and information systems remain protected during and after all personnel actions including, but not limited to, terminations and transfers; and

3. implement formal sanctions for the failure of personnel to comply with security policies and procedures.

B. Access to systems, data, and information shall be restricted by job functions. A licensee and casino operator shall establish security groups to ensure that access to computer systems shall be granted to authorized users only and be used solely for the types of transactions and functions that an authorized user is permitted to exercise.

1. A licensee's or casino operator's information technology (IT) department shall review the system access logs at the end of each month. Discrepancies shall be investigated, documented, and maintained for a period of five years.

2. A licensee and casino operator shall maintain personnel access listings that include, at a minimum, the employee's name, position, identification number, and a list of functions the employee is authorized to perform, including the date that authorization is granted. These files shall be updated as employees or the functions they perform change.

3. All changes to the system and the name of the individual who made the change shall be documented.

4. Reports and all other output generated from the system(s) shall only be available and distributed to authorized personnel.

C. All access to the server areas shall be documented on a log maintained by IT. Such logs shall be available at all times. The logs shall contain entries with the following information:

1. name of each person entering the room;

2. reason each person entered the room;

3. date and time each person enters and exits the room;

4. date, time, and type of any equipment malfunction in the room;

5. a description of any unusual events occurring in the room; and

6. such other information required in the internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2017 (November 2018).

§2811. Protection of Communications

A. A licensee and casino operator shall:

1. monitor, control, and protect all communication and information transmitted or received by the casino's computer systems at the external and internal boundaries of those systems; and

2. employ software development techniques, architectural designs, and systems engineering principles that promote effective information security within the casino's information systems.

B. To the extent possible and practical, all network communications and storage of confidential or sensitive data shall be encrypted. At a minimum, personal patron data shall be considered confidential. Personal patron data shall include, but not be limited to, any non-public patron information collected by the casino, such as date of birth, social security number, credit card number, bank account information, and driver's license number. The importance of additional data may vary as a function of how critical that data is to the integrity of the network and/or the needs of the casino. A licensee and casino operator must assess the type of data that the network carries or stores and determine the relative sensitivity of such information. This assessment shall then serve as a guide to the types of security measures that are appropriate for the network.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2017 (November 2018).

§2813. Training

A. All personnel with access to information systems for any purpose shall be trained to understand how these systems can be compromised by outside agents through personal contact and misrepresentations by those agents as to their identity and need for access to any information concerning the systems or the information they protect. All such attempts by anyone to gain information about information systems including passwords or access should be reported to the person in charge of information security immediately. This training shall be documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2017 (November 2018).

§2815. Audit of System and User Activities

A. A licensee and casino operator shall:

1. create, protect, and retain information system audit records to the extent necessary to enable the monitoring, analysis, investigation, and reporting of unlawful, unauthorized, or inappropriate information system activity; and

2. ensure that the actions of individual information system users can be uniquely traced to those users so that they may be identified and held accountable for their actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2017 (November 2018).

§2817. Backup and Recovery

A. IT shall backup system data daily. Backup and recovery procedures shall be written and distributed to all applicable personnel. These policies shall include information and procedures that detail, at a minimum, a description of the system, access to system manuals, and other procedures that ensure the timely restoration of data in order to resume operations after a hardware or software failure.

B. Licensees and the casino operator shall maintain system-generated edit reports, exception reports, and transaction logs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2018 (November 2018).

§2819. Application Controls

A. Application controls shall include procedures that provide assurance of the accuracy of the data input, the integrity of the processing performed, and the verification and distribution of the output generated by the system. Examples of proper controls include:

1. proper authorization prior to data input, for example, passwords;
2. use of parameters or reasonableness checks; and
3. use of control totals on reports and comparison of them to amounts input.

B. Documents created from the above procedures shall be maintained for a period of five years.

C. Computer Control

1. The delete option within an individual program shall be secured so that only authorized users can execute it. The delete option shall not allow for the deletion of any gaming transaction or void.

2. A licensee and casino operator shall require employees and vendors to change passwords in accordance with documented password security best practices, as specified in the internal controls. Password complexity shall be of sufficient strength to ensure security against false entry by unauthorized personnel.

3. The secured copies, restricted copies, and other electronically stored documents required by these rules and those necessary to calculate gaming revenue and expenses shall be retained for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2018 (November 2018).

§2821. Remote Access Requirements

A. Each licensee and casino operator shall establish and maintain a remote access policy that controls access to the slot monitoring system (SMS), casino management system (CMS), gaming equipment, and other related systems. This includes, but is not limited to, computer controlled key control devices and ticket cashing kiosks. Access shall be controlled from any terminal that is not physically located within or adjacent to the casino property. Write access to gaming systems shall only be provided to gaming permitted employees or controlled on a per access basis by a gaming permitted employee. "Read only" access is not prohibited by this policy. A help desk may remotely login to other user accounts in accordance with corporate IT policies to provide assistance as necessary. The remote access policy shall, at a minimum, contain these requirements:

1. login and transaction security shall be in accordance with a licensee or casino operator's remote access policy;
2. all remote access must be traceable to an authorized individual. There shall be no sharing of accounts or passwords that would result in ambiguity as to which person was involved in any remote access;
3. accounts shall be set up to allow only access to those applications, functions, or accounts necessary. selective access shall be as specific and limited as the operating system or security system will allow;
4. all security related events shall be logged, and any unusual event must be investigated including, but not limited to, failed login attempts and attempts to access restricted assets; and
5. access shall be blocked immediately when it is no longer required by an individual to complete the job function.

B. A record shall be made and kept of any and all changes made and actions taken during each remote access. IT help desk activity shall be in accordance with the company's IT policy and help desk logs (help tickets, help desk activity reports, etc.) shall meet the requirements of this Section. The record shall be clear, comprehensible, and thorough, and shall record all configuration and activity details of remote access connectivity. If remote access activity is related to normal system transactions, audit logs of the transactions will meet the requirement of recording activity. The record shall be reviewed quarterly by appropriate personnel to confirm that the authorized task was completed. Discrepancies shall be investigated.

C. The system access log, change log, security log, and investigation results shall be documented in a way that can be displayed or printed upon request by the board or division and shall be maintained for a period of five years.

D. A backup of system data, gaming data, and software shall be completed prior to remote access if any anticipated action is expected to endanger the system or data. The backup shall contain no less than the previous day's data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2018 (November 2018).

§2823. Disaster Recovery Plan

A. Licensees and casino operators shall establish a documented contingency plan to mitigate loss or harm and ensure that all critical data is retrievable and that it can be restored to a usable format as quickly and efficiently as possible in the event that a system or service becomes

unavailable. The contingency plan shall be updated regularly and shall remain current with system changes and developments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2018 (November 2018).

§2825. Computer Monitoring Requirements of Electronic Gaming Devices

A. Each licensee and casino operator shall have a system connected to all EGDs in the casino that are activated for patron play that records and monitors the activities of such devices. No EGDs shall be operated unless it is connected to the system. Licensees and casino operators shall use a system approved by a designated gaming laboratory specified by the division or board. Such system shall provide on-line, real-time monitoring, and data acquisition capabilities.

1. Licensees and casino operators shall immediately report any occurrence of malfunction or interruption of communication between the EGDs and the system to the division. These malfunctions include, but are not limited to, a system down for maintenance or malfunctions, zeroed meters, and invalid meters.

2. Prior written approval from the division is required before implementing any changes to the computerized EGD monitoring system. Licensees and casino operators shall notify the division when transitioning to manual procedures when the EGD monitoring system is down. Changes to the operating system of the EGD monitoring system recommended by the operating system vendor may be made after notification of the operating system upgrade to the division, and do not require prior written approval.

3. Each modification of the application software shall be approved by a designated gaming laboratory specified by the division or board.

B. The system required in Subsection A of this Section shall be designed and operated to automatically perform and report functions relating to EGD meters, and other functions and reports including, but not limited to:

1. record the number and total value of cash equivalents placed in the EGD for the purpose of activating play;

2. record the total value and number of each value of currency and tickets received from the currency acceptor for the purpose of activating play;

3. record the number and total value of cash equivalents deposited in the drop bucket of the EGD;

4. record the number and total value of cash equivalents automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of cash equivalents to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert and alarm monitoring capability to ensure direct scrutiny of conditions detected and reported by the EGD including any device malfunction, any type of tampering, and any open door to the drop area. Any person opening the EGD or the drop area, except the drop team, shall complete the machine entry authorization log including time, date, machine identity, and reason for entry;

7. be capable of logging in and reporting any revenue transactions not directly monitored by the token meter, including tokens placed in the EGD as a result of a fill and any tokens removed from the EGD in the form of a credit;

8. record date, time, and EGD identification number of any EGD taken off-line or placed on-line; and

9. report the time, date, and location of open doors or events specified in §4201.G.2 of this Part by EGD.

C. All date and time generators shall be based on a synchronized central or master clock.

D. A licensee and casino operator shall store, in machine-readable format, all information required by Subsection B of this Section for a period of five years. A licensee and casino operator shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available upon request by a division agent in the format and media approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2019 (November 2018).

Chapter 42. Electronic Gaming Devices

§4205. Computer Monitoring Requirements of Electronic Gaming Devices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1674 (July 2012), repealed LR 44:2019 (November 2018).

Ronnie Jones
Chairman

1811#019

RULE

Department of Public Safety and Corrections
Office of MotorVehicles

Administrative Hearing Requests for Suspensions and Disqualifications Arising from Tests for Suspected Drunken Drivers (LAC 55:III.113)

Under the authority of R.S. 32:667(A), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles (department), adopts a Rule regarding Administrative Hearing Requests for Suspensions and Disqualifications Arising from Tests for Suspected Drunken Drivers. This notice repeals and overwrites the existing §113 as the duration of a driver's license is address in R.S. 32:412. This §113 is new and implements the provisions of Act 291 of the 2018 Regular Session of the Louisiana Legislature

which provide for an extension of the time for which to request an administrative hearing. This Section is adopted and effective on November 20, 2018.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 1. Driver's License
Subchapter A. General Requirements
§113. Administrative Hearing Requests for Suspensions and Disqualifications Arising from Tests for Suspected Drunken Drivers

A. All administrative hearing requests in accordance with R.S.32:667 or R.S. 32:414.2, for suspensions or disqualification, based upon a submission, or refusal to submit, to the chemical test for intoxication, that are submitted to the Department of Public Safety & Corrections, Office of Motor Vehicles, shall be received by the close of business on the thirtieth day after the date of arrest, or shall be post-marked no later than 30 days from the date of arrest to be deemed timely.

B. In the event the arrested person was unable to make a timely request in regards to R.S.32:667 for an administrative hearing during the 30 day period due to incarceration, hospitalization, deployment to the military or due to a Gubernatorial Declaration of Emergency, the person may submit such documentation to the department, post-marked no later than 90 days from the date of arrest, which shall establish the person's inability to timely request the administrative hearing.

C. The written request for a hearing, or for an extension on a hearing request due to one of the above reason, together with the supporting documentation, shall be mailed to: Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, P. O. Box 64886, Baton Rouge, LA 70896-4886; or delivered to the Office of Motor Vehicle Headquarters, 7979 Independence Blvd., Baton Rouge, LA 70806.

D. Requests under this Section which are received by the Department of Public Safety and Corrections, Office of Legal Affairs within the time periods provided in Subsections A or B of this Section shall be deemed to be timely.

E. Requests under this section should not be sent directly to the Division of Administrative Law. Sending requests to the Division of Administrative Law may result in such request being untimely when delivered to the Department of Public Safety and Corrections, Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:667(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 44:2020 (November 2018).

Lt. Col. Jason Starnes
Chief Administrative Officer

1811#038

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Designations or Restrictions on Driver's Licenses and Identification Cards (LAC 55:I.108)

Under the authority of R.S. 32:412(O) and R.S. 32:403.3 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles (department), adopts a Rule regarding persons who need an accommodation, or are deaf or hard of hearing. Section 108 is new and implements the provisions of Act 514 of the 2014 Regular Session of the Louisiana Legislature, which provides for the deaf or hard of hearing restriction on a driver's licenses, and Act 74 of the 2017 Regular Session of the Louisiana Legislature, which provides for the Need Accommodation designation on a driver's licenses and identification cards. This Section is adopted and effective on November 20, 2018.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 1. Driver's License
Subchapter A. General Requirements
§108. Designations or Restrictions on Driver's Licenses and Identification Cards

A. Needs Accommodation

1. A special Louisiana driver's license or identification card shall be issued to any applicant upon request who needs accommodation. The designation shall be issued by the Department and exhibited on the driver's license or identification card.

2. A "Needs Accommodation" designation shall be exhibited on a personal class or chauffer's class license or identification card.

3. Only applicants with a physical, mental or developmental disability documented as required in Paragraph A.4. of this section are eligible for the designation "Needs Accommodation."

4. All applications for a "Needs Accommodation" designation shall be accompanied by a statement, on a form provided by the Department, from a qualified medical professional licensed in Louisiana or another state or territory of the United States, stating the medical information which establishes the mental, physical, or developmental disability required to obtain the designation authorized in this Section.

5. If the holder of a driver's license or identification card with a "Needs Accommodation" designation no longer wishes to have the designation displayed on the driver's license or identification card, the holder shall return the credential the department for cancellation.

6. No additional fee shall be charged to include such a designation. The charge for a "Needs Accommodation" driver's license or identification card shall be the same as for regular driver's license.

B. Deaf or Hard of Hearing

1. A special Louisiana driver's license card shall be issued to any applicant who is deaf or hard of hearing.

2. A restriction code will be placed on the driver's license for deaf or hard of hearing and these codes will be inclusive of a restriction 41 as well.

3. Only applicants who are deaf or hard of hearing documented as required in Paragraph B.4. of this Section are eligible to have the restriction code placed on their driver's license.

4. All applications for a deaf or hard of hearing restriction shall be accompanied by a medical examination form from a qualified medical, audiologist, or speech pathologist professional licensed in Louisiana stating the medical information which establishes the applicant is deaf or hard of hearing.

5. No additional fee shall be charged to include such restriction. The charge for a driver's license inclusive of the restrictions shall be the same as for regular driver's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:412(O) and R.S. 32:403.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 44:2020 (November 2018).

Lt. Col. Jason Starnes
Chief Administrative Officer

1811#039

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Digitized Driver's License or Special ID Card
(LAC 55:III.161)

Under the authority of R.S. 32:411(F)(1) and (3)(d) and (f), and R.S. 40:1321(B) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles (department), has amended §161 on digitized driver's licenses to provide for digitized special identification cards, and to provide for other matters. The amendment to §161 implements the provisions of Act 552 of the 2018 Regular Session of the Louisiana Legislature which provides for issuance of a digitized special identification card and to establish a fee to install the application to display a digitized special identification card. This Section is adopted and effective on November 20, 2018.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 1. Driver's License
Subchapter A. General Requirements
§161. Digitized Driver's License or Special ID Card

A. As used in this Section, digitized driver's license shall have the meaning assigned to it as in Title 32 of the 1950 *Louisiana Revised Statutes*.

B. As used in this Section, a *digitized special identification card* shall mean a data file available on any mobile device which has connectivity to the internet through an application that allows the mobile device to download the data file from the department or an authorized representative of the department and contains all of the data elements visible on the face and back of the special identification card, displays the current status of the identification card that complies with the standard of REAL ID. For purposes of the Subparagraph, "current status" shall include but is not limited to valid, expired, or cancelled. A digital copy, photograph, or image of a special identification card which is not downloaded through the application on a mobile device shall not be considered a valid digitized special identification card as provided by this Subsection.

C. A licensee may obtain a digitized driver's license or special identification card by purchasing the digitized driver's license or special identification card application from the department or its authorized representative. The fee to initially install the application to display a digitized driver's license or special identification card on a mobile device shall be $6. The $6 fee will also be charged if the holder of a driver's license or special identification card desires to continue using the application upon renewal of the credential.

D. The application shall be installed upon initial purchase and upon renewal of a driver's license or special identification card.

E. The number of active applications per driver's license or special identification card is limited to one unless the capability to add additional devices is approved by the commissioner.

F. In the case of lost, stolen, or replaced mobile devices, the holder of a digitized driver's license or special identification card shall re-assign the application to another mobile device and terminate use of the application on the lost, stolen, or replaced mobile device.

G. The licensee utilizing the digitized driver's license or special identification card is responsible for the successful operation of the application. If the person to whom the licensee is presenting the digitized driver's license or special identification card to is unable to read the digitized driver's license or special identification card, it will be as if the licensee did not present a driver's license at all.

H. Acceptance of the digitized driver's license or special identification card by individuals, businesses, and

governmental entities is subject to the applicable state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:411(F)(1) and (3)(d) and (f) and R.S. 40:1321(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 43:1419 (July 2017), amended LR 44:2021 (November 2018).

Lt. Col. Jason Starnes
Chief Administrative Officer

1811#037

RULE

Department of Revenue
Policy Services Division

Commercial Farmer Definition for Sales and Use Tax Exemption for Feed, Seed and Fertilizer
(LAC 61:I.4301, 4404, and 4408)

Under the authority of R.S. 47:301(10)(2), 47:301(30), 47:305.3, 47:305.8, 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, amends LAC 61:I.4301, 4404 and 4408.

The purpose of these amendments is to implement Act 378, of the 2017 Regular Session, which set forth the definition of commercial farmer at R.S. 47:301(30) and limited the exemptions found at R.S. 47:301(10)(e), 47:305.3 and 47:305.8 to commercial farmers. This Rule is hereby adopted on the day of promulgation.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4301. Uniform Sales and Local Sales Tax Definitions

A. - B. …

C. All examples included in the text of these rules and regulations are for illustration only and in no case should they be construed to impose a limitation.

* * *

Commercial Farmer—

a. Commercial Farmer is defined by R.S. 47:301(30) to mean persons, partnerships or corporations who:

i. are occupationally engaged in producing food or agricultural commodities for sale or for further use in producing food or such commodities for consumption or sale;

ii. regularly engage in the commercial production for sale of vegetables, fruits, crops, livestock and other food or agricultural products; and

iii. report farm income and expenses on a federal Schedule F or similar federal tax form, including but not limited to, Forms 1065, 1120 and 1120S under a North American Industry Classification System (NAICS) Code beginning with 11.

b. For purposes of this definition, agricultural products shall mean any agronomic, aquacultural, floricultural, horticultural, maricultural, silvicultural, or viticultural crop, livestock or product.

c. For purposes of this definition livestock means any animal, except dogs and cats. This definition includes bees, cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

d. A person, partnership or corporation shall not be considered a commercial farmer if their livestock or crops are produced or maintained for reasons other than commercial use, such as recreational or personal consumption.

e. In order to file a Schedule F or similar federal tax form, a farm must be operated for profit. If farming activity is not carried on for profit, as defined in 26 CFR 1.183-2, then expenses must be itemized on a Schedule A.

f. The department will issue certifications to commercial farmers upon application and satisfaction of all legal requirements.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554, 2556 (December 2002). LR 29:186 (February 2003), LR 30:1306 (June 2004), LR 30:2870 (December 2004), LR 31:697 (March 2005), LR 32:111 (January 2006), LR 32:865 (May 2006), LR 44:2022 (November 2018).

Chapter 44. Sales and Use Tax Exemptions
§4404. Seeds Used in Planting Crops

A. The sale at retail of seeds for use by a commercial farmer in the planting of crops of any kind is exempt from state and local sales or use tax. Crops do not include the planting of a garden to produce food for the personal consumption of the planter and his family. Neither is it intended to cover seed used in the planting of growth for landscape purposes unless the commercial farmer is engaged in the business of harvesting those plants and selling them in the commercial market.

B. It is not necessary that the farm operation result in a net profit or that a given acreage of any particular crop be planted. The only requirement is that the planting be made by a commercial farmer.

C. A commercial farmer must present a valid commercial farmer certification certificate and applicable exemption certificate at the time of the purchase. The seller must keep a record of the presentation of such documentation. If the dealer fails to retain evidence of the valid certification and exemption certificate then the dealer will be liable for the sales tax on such purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47.305.3, R.S. 47:337.2, R.S. 47:337.9 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31.99 (January 2005), LR 44:2022 (November 2018).

§4408. Pesticides Used for Agricultural Purposes

A. General. R.S. 47:305.8 provides an exemption from state and local sales or use tax for the sale at retail to commercial farmers of pesticides used for agricultural purposes. This exemption includes, but is not limited to, insecticides, herbicides, and fungicides used for agricultural purposes.

B. Definitions

* * *

C. Dealer Requirements. A commercial farmer must present a valid commercial farmer certification certificate and applicable exemption certificate at the time of the purchase. The seller must keep a record of the presentation of such documentation. If the dealer fails to retain evidence of the presentation of valid certification and exemption certificate then the dealer will be liable for the sales tax on such purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47.305.8, R.S. 47:337.2, R.S. 47:337.9 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:401 (April 1995), amended by the Department of Revenue, Policy Services Division, LR 31.95 (January 2005), LR 44:2023 (November 2018).

Kimberly Lewis Robinson
Secretary

1811#036

RULE

Department of Revenue
Policy Services Division

Louisiana Rehabilitation of Historic Structures Tax Credit
(LAC: 61:I.1917)

Under the authority of R.S. 47:6019 and 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, adopts LAC 61:I.1917 relative to the Historic Rehabilitation Tax Credit.

Revised Statute 47:6019 authorizes a credit for the eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district or a cultural district. The purpose of this regulation is to further define relative to eligible costs and expenses and to provide for an application procedure as it pertains to the historic rehabilitation credit. In addition, the regulation provides relative to transfer fees, as authorized by R.S. 47:6019. This Rule is hereby adopted on the day of promulgation.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions
§1917. Louisiana Rehabilitation of Historic Structures Tax Credit

A. General Description

1. Revised Statute 47:6019 authorizes an income and corporation franchise tax credit for eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district or a cultural district. Eligible structures must be nonresidential real property or residential rental property.

2. The tax credit for QRE's is earned only in the year in which the property attributable to the expenditures is placed in service. However, regardless of the year in which the property is placed in service, the amount of the credit shall equal 25 percent of the eligible costs and expenses of the rehabilitation incurred prior to January 1, 2018, and 20 percent of the eligible costs and expenses of the rehabilitation incurred on or after January 1, 2018.

3. No taxpayer, or any entity affiliated with such taxpayer, shall claim more than $5,000,000 of credit annually for any number of structures rehabilitated within a downtown development district or cultural district.

4. The credit shall be allowed against the income tax for the taxable period in which the credit is earned and against the franchise tax for the taxable period following the period in which the credit is earned. If the tax credit allowed pursuant to R.S. 47:6019 exceeds the amount of such taxes due, any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed five years. The credit may be used in addition to the 20 percent federal tax credit for such purposes.

5. The tax credit shall not be allowed for the rehabilitation costs and expenses that are paid for with state or federal funds, unless the state or federal funds are reported as taxable income or are structured as repayable loans.

B. Definitions

Assistant Secretary—the Assistant Secretary of the Office of Legal Affairs, Louisiana Department of Revenue, or, in the absence of such official, another designee as authorized by the secretary.

CPA—certified public accountant.

Cultural District—a district designated by a local governing authority in accordance with law for the purpose of revitalizing a community by creating a hub of cultural activity, including affordable artist housing and workspace, which has been determined by the Department of Culture, Recreation and Tourism to meet the criteria established to be so designated.

Department—the Louisiana Department of Revenue.

Downtown Development District—a downtown development district or central business development district created by law, or by ordinance adopted prior to January 1, 2002, in a home rule charter municipality.

Eligible Costs and Expenses—qualified rehabilitation expenditures as defined in section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, except that "substantially rehabilitated shall mean that the qualified rehabilitation expenditures must exceed $10,000.

Phased Projects—a project which is completed in multiple phases.

QRE's—qualified rehabilitation expenses.

SHPO—State Historic Preservation Office.

SOI-Compliant—work performed in accordance with the Secretary of the Interior's Standards for Rehabilitation.

Transfer—for purposes of the fee requirement, an assignment, disposition, transfer or allocation of tax credits.

C. Application Procedure

1. Initial Determination of Eligibility by the SHPO

a. The SHPO determines whether the structure, before and after the work is performed, qualifies as contributing to the historical significance of the district. Specifically, the SHPO determines whether work was performed on an eligible structure and whether such work performed was SOI-compliant. A project is determined to be a certified rehabilitation if the building itself meets eligibility requirements and the work is SOI-compliant.

b. The SHPO makes a determination as to whether a project is determined to be a certified rehabilitation through a three-part application process administered by an architectural historian.

i. In Part 1, the SHPO certifies whether the structure is eligible for the Program.

ii. In Part 2, the SHPO certifies whether the work, as proposed by the applicant, is SOI-compliant.

iii. In Part 3, the SHPO confirms that the actual work performed by the applicant was indeed SOI-compliant.

c. If the project is determined by SHPO to be a certified rehabilitation, the SHPO shall provide to the applicant, with copies to the department, an approved "part 3-request for certification of completed work", and an executed section 1 of Form R-6121B.

2. Approval of the Credit by the Department of Revenue

a. An applicant shall submit the following to the department:

i. a certified audit report or examined cost certification prepared by an independent auditor, which report and auditor meet the following minimum qualifications as set forth by the department:

(a). the auditor must be a CPA licensed in the State of Louisiana or in compliance with the CPA Mobility Act and must be an independent third party not related to the applicant;

(b). the CPA must be listed on the legislative auditor approved listing, or, if not licensed in Louisiana, in compliance with the CPA Mobility Act;

(c). the auditor's opinion must be addressed to the party which has engaged the auditor, but may expressly permit others to rely on the same;

(d). the name of the auditor's firm, address, and telephone number must be evident on the report;

(e). the auditor's opinion must be dated no earlier than the completion of the audit fieldwork;

(f). the certified audit report or examined cost certification must be performed in accordance with auditing standards set forth by the American Institute of Certified Public Accountants, the auditor must have sufficient knowledge of accounting principles and the SOI standards for rehabilitation. The auditor's opinion should be accompanied by the cost report of QRE's, the notes to the cost report, and a completed CPA certification form;

(g). the period during which qualified rehabilitation costs were incurred must be noted;

(h). the certified audit report or examined cost certification must provide a breakdown of all related party transactions, as defined by the Statement of Financial Accounting Standards No. 57 and include the following:

(i). the name and address of the related party;

(ii). the nature of the relationship between the related party and the applicant;

(iii). the nature and amount of the transaction;

(iv). the federal and state tax identification numbers of the related party for total payments equal to $10,000 or greater, and payment schedule if there are remaining outstanding balances;

(v). if there are no related party transactions, the cost report must include a note indicating such;

(i). a reasonableness/fairness opinion shall be submitted, if applicable, comparing the amounts charged on related party transactions to what an independent party would have charged for similar work and/or services;

(j). for any total payments $100,000 or greater, the report or certification must include the following:

(i). name and address of the payee;

(ii). federal and state tax numbers of the payee;

(iii). any state/and/or local license numbers of the payee (i.e. contractor's license); and

(iv). total amount paid (Form R-6122).

b. For those applicants whose total project cost is $500,000 or less, the following information may be submitted in lieu of the requirements contained in Subparagraph C.2.a of this Section. Projects submitted in multiple phases, "phased projects", where the estimated total costs of all phases of a project is greater than $500,000 must submit the information required in Subparagraph C.2.a of this Section, regardless of whether the specific cost for any particular phase being submitted for review is $500,000 or less. For qualifying projects, an applicant must submit the following information:

i. an itemized listing of all QRE's as well as all non-QRE's, detailing all costs and eligible expenses as defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended. The itemized listing must conform to the requirements of Subclause C.2.a.i.(f) of this Section, as provided, and contain an arms-length comparison for each expenditure submitted as well as the period during which the rehabilitation costs were incurred. Column headings for the list must include: category of work, method of payment, date paid, name of payee/contractor, description of expenditure, total amount of expenditure and amount of QRE's. The department may require documentation to verify whether the

expenses claimed were actually incurred during the rehabilitation;

ii. an invoice for each QRE totaling $2,500 or more. Where the aggregate payments to a single payee are equal to or greater than $100,000, the federal and state tax numbers as well as any state and/or local license numbers (i.e. contractor's license) must be submitted;

iii. a notarized statement attesting that the expenditures submitted were incurred in connection with the rehabilitation of a "certified historic structure" that is properly chargeable to a capital account. Such expenditures include: architectural and engineering fees; construction interest and taxes; developer's fees; general administrative fees; legal and professional fees; and rehabilitation costs. Common expenditures which do not qualify as QRE's include, but are not limited to: acquisition costs; appliances; appraisal costs; cabinets; carpeting (when tacked and not glued to floor); demolition costs; financing fees; furniture; leasing expenses; marketing costs; moving costs; parking lot; paving and landscape costs; and signage.

c. The department shall review the certified audit report, examined cost certification, or itemized listing of all QRE's and non-QRE's. The department may request additional documentation from the applicant as it determines necessary. Further, the department may rely on the SHPO for any technical assistance, as determined necessary during the review process. This assistance includes, but is not limited to, interpretations of the Secretary of the Interior standards for rehabilitation. For projects with a placed in service date occurring on or after January 1, 2018 that have expenditures incurred both before and after January 1, 2018, the audit report, examined cost certification or itemized listing submitted for review shall segregate such expenditures by date so as to allow the proper credit rate to be determined. Failure to so segregate such expenditures will result in credit being applied at a blanket rate of 20 percent.

d. After all supporting documentation is received and approved, the department shall complete and provide to the applicant Section 2 of Form R-6121-B, thereby confirming the certified amount of the tax credit earned by the applicant. With the exception of phased projects, the final year of the placed in service date shall be the first year the credit may be utilized. Issuance of the tax credit certificate shall be delayed by any outstanding tax balances of the applicant until all such tax balances are resolved.

D. Internal Appeal Process

1. Applicants may appeal the denial of the certification of expenditures to the assistant secretary.

a. Written notice of the intent to appeal must be received by the department within ten business days from the date of the denial letter.

b. The full appeal must be received by the department no later than 30 calendar days from the date of the denial letter. Appeals must be in writing and must detail specific reasons the denial should be partially or completely reconsidered or overturned.

i. Upon a showing of reasonable cause, the assistant secretary may extend the deadline for submission of the full appeal.

c. The assistant secretary, at his discretion, may hold a hearing in connection with the appeal.

2. Upon review of the appeal and consideration of the hearing, if applicable, the assistant secretary shall take one of the following actions:

a. sustain, in full or in part, the denial;

b. overturn, in full or in part, the denial.

3. The assistant secretary's final written decision to any appeal must be issued no later than 90 days after receiving the full appeal.

E. Claiming or Transferring the Tax Credit

1. All tax credits issued pursuant to R.S. 47:6019 must be registered and conform to all requirements of the Tax Credit Registry, as provided in R.S. 47:1524, in order to be claimed on a return or transferred.

2. Persons who are awarded tax credits may elect to sell their unused tax credits to one or more individuals or entities. The tax credits may be transferred or sold by a taxpayer or any subsequent transferee an unlimited number of times. However, the transfer of the credit does not extend the carry forward period of the credit.

3. Transferors and transferees shall submit to the department in writing a notification of any transfer or sale of tax credits within ten business days after the transfer or sale of such credits. The notification shall be accompanied by a tax credit transfer processing fee of $200. The notification shall include the transferor's tax credit balance prior to transfer, the credit identification number assigned by the state historic preservation office, the remaining balance after transfer, all federal and Louisiana tax identification numbers for both transferor and transferee, the date of transfer, the amount transferred, and any other information requested by the department. Failure to comply with this notification provision will result in the disallowance of the tax credit until the parties are in full compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:6019.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 44:2023 (November 2018).

Kimberly Lewis Robinson
Secretary

1811#035

RULE

Workforce Commission
Office of Unemployment Insurance Administration

Background Check for Access to Federal Tax Information
(LAC 40:IV.379)

Pursuant to the authority granted by R.S. 15:587.5, 23:1657.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Workforce Commission has promulgated LAC 40:IV.379. The purpose of the promulgation of this Rule is to allow the Workforce Commission to delineate procedures for the background checks mandated by Act 147 of the 2017 Regular Session. This Rule is hereby adopted on the day of promulgation.

Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security
Subpart 1. Board of Review
Chapter 3. Employment Security Law
§379. Criminal History Background Check for Access to Federal Tax Information

A. Definitions

Criminal History Background Checks—a review of an individual's criminal history on the national level through the use of fingerprints sent to the Federal Bureau of Investigation (FBI), the state level, through the use of fingerprints sent to the Louisiana Bureau of Criminal Identification and Information and the local level, through various local law enforcement agencies.

Federal Tax Information (FTI)—consists of federal tax returns and return information (and information derived from it) that is in the Louisiana Workforce Commission's possession or control which is covered by the confidentiality protections of the Internal Revenue Code and subject to its safeguarding requirements, including IRS oversight.

B. Applicability

1. All prospective Louisiana Workforce Commission employees who will be expected to handle FTI and have signed a conditional job offer, all prospective Louisiana Workforce Commission contractors and subcontractors expected to handle FTI, and all current employees, contractors and subcontractors that handle FTI will submit fingerprints and other identifying information and undergo the following criminal history background checks:

a. state criminal history record check;

b. national criminal history record check from the F.B.I.;

c. check of all local law enforcement agencies where the subject has lived, worked and/or attended school in the last five years.

C. General Provisions for Criminal History Background Checks

1. Every current employee, prospective employee, contractor or subcontractor employee identified as having or who will have access to FTI, shall sign a written authorization to have fingerprinting and criminal history background checks performed.

2. Criminal history background checks will be completed, at minimum, every 10 years.

3. Criminal history background checks will only be done on prospective employees after a conditional offer of employment is signed by prospective employee.

4. Criminal history background checks on prospective employees of contractors and subcontractors must be done prior to beginning work on the contract.

D. Suitability Determination

1. Unless otherwise excluded from employment under federal or state laws, all criminal conduct revealed by the criminal history background checks will be considered based upon the following criteria:

a. relevance of criminal record or conduct to the position sought or held;

b. the nature of the work to be performed;

c. the time that has elapsed since the conviction or conduct;

d. the seriousness and specific circumstances of the offense/conduct, including the type of harm caused, and/or the legal elements involved in the specific crime committed;

e. the number of offenses;

f. whether the candidate has pending charges;

g. whether the individual is likely to have committed the offense/conduct;

h. the nature and gravity of the offense/conduct;

i. any evidence of rehabilitation or contrition; and

j. any other relevant information, including that submitted by or on behalf of the final candidate, current employee, contractor or subcontractor, or other information obtained by LWC.

2. If no criminal conduct is revealed by the criminal history background checks, the prospective employee or current employee will be deemed suitable to handle FTI based on the criminal background checks only if the prospective or current employee also is a citizen or legally authorized to work in the U.S. and no other issues involving the trustworthiness of the prospective or current employee arise. Contractors and subcontractors will be determined suitable relevant to the background checks if no criminal conduct is found and all other requirements under IRS Publication 1075 are met.

3. If criminal conduct is discovered by the criminal history background checks, the Louisiana Workforce Commission will consider the criteria and make a suitability determination. If an unfavorable determination is made, the prospective employee, current employee, contractor's employee or subcontractor's employee will be notified in writing and will be given 30 days from the date of mailing, as evidenced by the date indicated on the letter, to present documentation to refute the suitability determination. If no documentation is submitted within 30 days, then the suitability determination will be final. If documentation is presented within 30 days, the Louisiana Workforce Commission will review the documentation and either affirm or reverse its original suitability determination. The Louisiana Workforce Commission's reconsidered determination shall be final. Even if a contractor's employee or subcontractor's employee receives a favorable suitability determination or redetermination, if all other requirements provided for by IRS Publication 1075 are not met, the contractor employee's or subcontractor employee's access to FTI will be denied or terminated.

E. Consequences of Unsuitability Determinations

1. access or use of FTI will be immediately denied, suspended, or terminated;

2. job offer will be rescinded for prospective employees if unsuitability determination is final;

3. contract may be terminated;

4. contractor's employee or subcontractor's employee will be removed or prohibited from performing work;

5. a current employee that receives a determination of unsuitability will have access suspended, and a current employee that receives a final determination of unsuitability will have access to FTI terminated;

6. current employees with access to FTI that receive a final determination of unsuitability may be reassigned or face disciplinary action depending upon the specific circumstances.

F. Nothing in this Rule shall prohibit the Louisiana Workforce Commission from taking adverse action against a prospective employee, or current employee with access to FTI based upon factors other than the outcome of the criminal background checks including, but not limited to, falsifying information on the application, unusual delay in completing or delivering required forms, or any action indicating the individual is unfit for a position of trust. All actions against a classified civil service employee will be taken in accordance with civil service rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.5 and R.S. 23:1657.1.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 44:2026 (November 2018).

Ava M. Dejoie
Secretary

1811#014

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Forestry

Forestry Productivity Program
(LAC 7:XXXIX.1307 and 1309)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Agriculture and Forestry (Department) intends to amend LAC 7:XXXIX.1307 and 1309 regarding the Forestry Productivity Program. The proposed Rule change increases the percent of the cost of the direct grant from 50 to 75 percent of the cost of implementing the cooperative agreement or the maximum cost share rates established by these regulations, whichever is less. The proposed Rule change also increases the land owner eligibility requirements from five contiguous acres in Louisiana suitable for growing a timber species approved by the department to ten contiguous acres.

Title 7
AGRICULTURE AND FORESTRY
Part XXXIX. Forestry
Chapter 13. Forestry Productivity Program
§1307. Extent of State Participation

A. - B.2. …

C. A direct grant shall not exceed 75 percent of the cost of implementing the cooperative agreement or the maximum cost share rates established by these regulations, whichever is less. In the event that state personnel, equipment or materials are utilized to implement an approved forestry practice the landowner shall be invoiced by the department for the cost of implementing the forestry practice. The landowner shall promptly pay such invoice and may subsequently submit the paid invoice for reimbursement under this program and these rules and regulations.

D. The maximum cost share rates are established as follows. Seventy-five percent of the cost per acre shall not exceed the following rates:

D.1. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 34:2338 (November 2008), LR 41:2102 (October 2015), LR 42:733 (May 2016), LR 42:1868 (November 2016), LR 45:

§1309. Land and Landowners Eligibility, Exclusions and Limitations

A. Any landowner owning ten contiguous acres or more in Louisiana suitable for growing a timber species approved by the department is eligible for participation in this program unless excluded by these regulations or otherwise excluded by law.

B. …

1. landowners owning less than 10 contiguous acres of land;

B.2. - C. …

1. any tract of land that is less than 10 contiguous acres;

2. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:44413 and R.S. 3:4414.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998), LR 45:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. mail or hand delivery to Wade Dubea, Assistant Commissioner of Forestry, Department of Agriculture and

Forestry, 5825 Florida Blvd., Suite 6000, Baton Rouge, LA 70806. Public comments must be received no later than 4 p.m. on December 10, 2018. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Forestry Productivity Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will increase expenditures for the Louisiana Department of Agriculture and Forestry (LDAF) from the statutorily dedicated Forestry Productivity Fund by up to 50% to individual, eligible landowners. The proposed rule change adjusts the cost-share rates paid through the Forestry Productivity Program (FPP) to eligible landowners for establishing or improving a crop of trees from 50% to 75%. Present rule limits the amount a landowner can collect through the FPP to $15,000. Payments to landowners vary based on the actual expenditures on qualified forestry practices; therefore, the exact expenditure increase is indeterminable. LDAF anticipates annual revenue collections will be sufficient to fund the increased cost-share. Furthermore, the proposed rule change increases the minimum acreage required to qualify for participation in the program from 5 to 10, and makes additional technical and clarifying changes.

For informational purposes, the Forestry Productivity Fund derives its revenue from a portion of the severance tax on timber products, and expenditures from this fund are restricted to the FPP. The FPP began FY 18 with a balance of $7.5 M and collected an additional $2.8 M. In the same fiscal year, the FPP expended $2.5 M and ended the year with a $7.8 M balance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in increased payments to eligible landowners who currently receive less than the $15,000 FPP cap. The average amount paid to a landowner through FPP is $7,000. Based on this average, the proposed rule change could result in an additional $3,500 ($7,000 x 50% increase) paid to qualifying landowners. However, the amount paid to each landowner through this program varies by the actual expenditures incurred and is capped at a maximum of $15,000 per year; therefore the aggregate increase is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have little to no effect on competition and employment. The proposed rule change raises the minimum number of contiguous acres owned to qualify for participation in the FPP from 5 acres to 10 acres. However, historically LDAF has not received any applications for the FPP from landowners owning less than 10 acres.

Dane Morgan
Assistant Commissioner
1811#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—English Language Proficiency—Measure of Progress (LAC 28:XI.405 and 409)

Under the authority granted in R.S. 17:6 and 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 proposes to amend *Bulletin 111—The Louisiana School, District, and State Accountability System*. The proposed amendments include a measure of progress to English language proficiency for English learners in the assessment index of the accountability formula.

Title 28
EDUCATION
Part XI. Accountability/Testing
Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations
§405. Calculating a K-8 Assessment Index [Formerly LAC 28:LXXXIII.405]

A. …

* * *

B. Beginning no earlier than the 2019-2020 school year, the kindergarten through eighth grade assessment index will also include a measure of progress to English language proficiency for English learners. The improvement of every English learner eligible to participate in ELPT counts in equal weight to all other exams.

1. The 2018-2019 school year will be a designated learning year.

a. English language proficiency progress results will be calculated but not included in 2018-2019 school performance scores.

b. As required by the federal Every Student Succeeds Act (ESSA), performance on the English language proficiency progress measure will be used for the purpose of identifying schools requiring comprehensive intervention in 2018-2019.

c. The Accountability Commission will review learning year results no later than August 2019.

2. For measuring progress on the ELPT assessment, the overall proficiency scores will be organized into the following levels:

a. emerging—all domain scores are one or two;

b. progressing 1—at least one domain score of three and the lowest domain score is one;

c. progressing 2—at least one domain score of three and the lowest domain score is two;

d. progressing 3—at least one domain score of three and the lowest domain score is three; and

e. transitioning—all domain scores are four or five.

3. Each English learner expected trajectory to proficiency will be determined as follows.

a. The initial proficiency level for each English learner will be determined based on the ELPT assessment results from the school year in which the student was first enrolled in a Louisiana public school and participated in the ELPT assessment.

b. If a student exits the United States for one or more school years following the initial ELPT assessment and later reenrolls in Louisiana, the student will be considered a new student for the purpose of determining the initial proficiency level.

c. For students first identified in prekindergarten through fifth grade, use the initial ELPT proficiency level and number of years identified as defined in the table below.

Trajectory to English Language Proficiency: Students First Identified in Grades PK-5				
Initial ELPT Proficiency Level	**Year 2**	**Year 3**	**Year 4**	**Year 5 and Beyond**
Emerging (E)	P1	P2	P3	T
Progressing 1 (P1)	P2	P3	T	T
Progressing 2 (P2)	P3	T	T	T
Progressing 3 (P3)	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A

d. For students first identified in sixth through twelfth grade, use the initial ELPT proficiency level and number of years identified as defined in the following table.

Trajectory to English Language Proficiency: Students First Identified in Grades 6-12						
Initial ELPT Proficiency Level	**Year 2**	**Year 3**	**Year 4**	**Year 5**	**Year 6**	**Year 7 and Beyond**
Emerging (E)	P1	P2	P2	P3	P3	T
Progressing 1 (P1)	P2	P2	P3	P3	T	T
Progressing 2 (P2)	P2	P3	P3	T	T	T
Progressing 3 (P3)	P3	T	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A	N/A	N/A

e. An ELPT score exceeds the trajectory if the score is at least one level higher than expected and meets the trajectory if the score is the same level as expected based on the tables above.

4. The level of progress on the ELPT assessment will be included in the kindergarten through eighth grade assessment index for each English learner according to the following table.

ELPT Progress Assessment Index Points	
Outcome	**ELP Index Points**
ELPT level exceeds trajectory	150
ELPT level meets trajectory	100
ELPT level is at least one above the prior year	80
ELPT level is the same or lower than the prior year	0

C. …

* * *

D. Weight each ELP index score by six.

E. Sum all weighted subject-test and ELP index scores.

F. Sum all weights applied to subject-test and ELP index scores from the tables in Subsections C and D of this Section.

G. Divide the sum from Subsection F of this Section by the total scores.

H. When eighth grade students only participate in the algebra I exam but not the grade-level math assessment, the algebra I test results will be used in the middle school 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; and
   b. good or mastery = 25.

I. The policy outlined in Subsection G of this Section will 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 ninth grade, as outlined in §409.A.3.

J. In the 2017-2018 school year, the science test will be administered as a field test only. When calculating the kindergarten through eighth grade 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, will 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.

K. In the 2018-2019 school year, the science test will be operational again. When calculating the kindergarten through eighth grade 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, will 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. 17:6 and 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 44:448 (March 2018), LR 45:

§409. Calculating a 9-12 Assessment Index [Formerly LAC 28:LXXXIII.409]

A. - A.4. …

B. Beginning no earlier than the 2019-2020 school year, the ninth through twelfth grade assessment index will also include a measure of progress to English language

proficiency for English learners. English learner improvement on the English language proficiency exam counts in equal weight to all other exams.

1. The 2018-2019 school year will be a designated learning year.

a. English language proficiency progress results will be calculated but not be included in 2018-2019 school performance scores.

b. As required by the federal Every Student Succeeds Act (ESSA), performance on the English language proficiency progress measure may be used for the purposes of identifying schools requiring comprehensive intervention in 2018-2019.

c. The Accountability Commission will review learning year results no later than August 2019.

2. For measuring progress on the ELPT assessment, the overall proficiency score will be divided into the following levels:

a. emerging: all domain scores are one or two;

b. progressing 1: at least one domain score of three and the lowest domain score is one;

c. progressing 2: at least one domain score of three and the lowest domain score is two;

d. progressing 3: at least one domain score of three and the lowest domain score is three; and

e. transitioning: all domain scores are four or five.

3. Each English learner expected trajectory to proficiency will be determined as follows.

a. The initial proficiency level for each English learner will be determined based on the ELPT assessment results from the school year in which the student was first enrolled in a Louisiana public school and identified as an English learner in 2017-2018, whichever is most recent.

b. For students first identified in prekindergarten through fifth grade, consider the initial ELPT proficiency level and number of years identified using the following table.

Trajectory to English Language Proficiency: Students First Identified in Grades PK-5				
Initial ELPT Proficiency Level	**Year 2**	**Year 3**	**Year 4**	**Year 5 and Beyond**
Emerging (E)	P1	P2	P3	T
Progressing 1 (P1)	P2	P3	T	T
Progressing 2 (P2)	P3	T	T	T
Progressing 3 (P3)	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A

c. For students first identified in six through twelfth grade, consider the initial ELPT proficiency level and number of years identified using the following table.

Trajectory to English Language Proficiency: Students First Identified in Grades 6-12						
Initial ELPT Proficiency Level	**Year 2**	**Year 3**	**Year 4**	**Year 5**	**Year 6**	**Year 7 and Beyond**
Emerging (E)	P1	P2	P2	P3	P3	T
Progressing 1 (P1)	P2	P2	P3	P3	T	T
Progressing 2 (P2)	P2	P3	P3	T	T	T
Progressing 3 (P3)	P3	T	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A	N/A	N/A

d. An ELPT score exceeds the trajectory if the score is at least one level higher than expected and meets the trajectory if the score is the same level as expected based on the tables above.

3. The level of progress on the ELPT assessment shall be included in the kindergarten through eighth grade assessment index for each English learner according to the following table.

ELPT Progress Assessment Index Points	
Outcome	**ELP Index Points**
ELPT level exceeds trajectory	150
ELPT level meets trajectory	100
ELPT level is at least one above the prior year	80
ELPT level is the same or lower than the prior year	0

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 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 44:448 (March 2018), LR 45:

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 12 p.m. (noon), December 10, 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—English Language Proficiency—Measure of Progress

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 proposed revisions which provide for a measure of progress to English language proficiency for English learners in the assessment index of the accountability formula. Per the state accountability system, potential implications for schools which are labeled comprehensive intervention required include increased resource needs for evidence based intervention and improvement programs. There may be increased costs for the Department of Education (LDE) as such labels require increased involvement by the department for schools which 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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Schools may be eligible for grants awarded by the LDE for improvement programs and initiatives.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1811#044	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District—Budget Reporting (LAC 28:CXLV.1103 and 1105)

Under the authority granted in R.S. 17:6 and 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 proposes to amend *Bulletin 129—The Recovery School District* in order align Recovery School District (RSD) budget reporting with other budget reviews and approvals conducted by BESE.

Title 28
EDUCATION
Part CXLV. Bulletin 129—The Recovery School District
Chapter 11. Fiscal Management

§1103. Annual Budget

A. …

B. The RSD direct-operated and charter-operated schools shall budget on a fiscal year basis, July 1 through June 30.

C. The revenues/receipts and expenditures disbursements in the RSD budget shall be listed and classified in such manner and substance as prescribed by the Division of Administration (DOA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:10.5(A)(1), 17:10.7(A)(1), and 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:310 (January 2011), amended LR 42:553 (April 2016), LR 45:

§1105. Budget Planning, Preparation, and Schedules

A. The RSD shall annually present the budget proposal to BESE for approval prior to submission to the DOA and a report on the status of the budget following the approval by the legislature.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), 17:10.7(A)(1), and 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:311 (January 2011), amended LR 42:553 (April 2016), LR 45:

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 12 p.m. (noon), December 10, 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 129
The Recovery School District—Budget Reporting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions codify the month of the RSD Budget Review to August (annually) and the month of the RSD Budget Approval to October (annually).

The proposed policy revisions will have no effect on costs or savings to the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy revisions will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will not result in costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1811#045	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations—Owners, Directors and Director Designees of Type III Early Learning Centers—Fraud and Felony Limitations (LAC 28:CLXI.Chapter 18)

Under the authority granted in R.S. 17:6 and 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 proposes to amend LAC 28:CLXI.Chapter 18 in *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*. The proposed revisions pertain to owners, directors and director-designees of type III early learning centers, by limiting crimes of fraud to felonies within the past 10 years. They also provide for a

BESE review for these crimes as well if the conviction was less than 10 years ago.

Title 28
EDUCATION
Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations
Chapter 18. Child Care Criminal Background Checks (CCCBC)

§1805. Persons Ineligible for Child Care Purposes

A. - C. ...

D. In addition, for type III centers an owner, director, or director designee shall not have been convicted of, or pled guilty or nolo contendere to a felony, within the past 10 years, for any of the following crimes of fraud:

1. 18 U.S.C. 287 and 1341 and R.S. 14:67.11, 14:68.2, 14:70.1, 14:70.4, 14:70.5, 14:70.7, 14:70.8, 14:71, 14:71.1, 14:71.3, 14:72, 14:72.1.1, 14:72.4, 14:73.5, and 14:133.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1 and 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018, amended LR 45:

§1806. Types of CCCBC-based Determinations of Eligibility for Child Care Purposes

A. There are two types of CCCBC-based determinations of eligibility for child care purposes:

1. "owner/director/director designee of type III centers" determinations of eligibility are required for owners, directors and director designees of type III centers; and

2. "child care staff member" determinations of eligibility are required for owners, directors and director designees of type I and type II centers and volunteers, staff, visitors, contractors and other persons providing services in any type of child care centers when children are present.

B. A person with an "owner/director/director designee of type III centers" determination of eligibility also has a "child care staff member" determination of eligibility.

C. A person with a "child care staff member" determination of eligibility does not have an "owner/director/director designee of type III centers" determination of eligibility.

1. For a person with a "child care staff member" determination of eligibility, a type III center must obtain an "owner/director/director designee of type III centers" determination of eligibility before that person can become an owner, director or director designee of the type III center.

2. To obtain an "owner/director/director designee of type III centers" determination of eligibility for a person with a valid "child care staff member" determination of eligibility, the type III center must request the subsequent determination from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

§1819. Termination of Employment and Removal from Center and Premises

A. - C. …

D. Exception for Owners, Directors and Director Designees of Type III Centers with Notices of Ineligibility

1. Upon receipt of notice from the department that an owner, director or director designee of a type III center is ineligible for child care purposes based solely on a crime of fraud listed in §1805.D of this Chapter, the owner, director or director designee of the type III center may remain on the premises pending a review of the determination of ineligibility by BESE, provided the owner, director or director designee of the type III center timely submits the following:

a. a written request to BESE staff for a review of the determination of ineligibility pursuant to §1823 of this Chapter within 15 business days of receipt of the notice of ineligibility from the department; and

b. documentation listed in §1823.D and E.2 of this Chapter to BESE staff within 30 business days of receipt of the notice of ineligibility from the department.

2. If the owner, director or director designee of the type III center:

a. fails to timely comply with Paragraph 1 of this Subsection;

b. chooses not to request a records review for the notice of ineligibility; or

c. remains ineligible because BESE declines to conduct a review of the determination, or BESE determines that the owner, director or director designee of the type III center shall remain ineligible, then the requirements in:

i. Subsection A of this Section shall apply to directors and director designees of the type III center who are not also owners, or the director or director designee of the type III center may continue to work as a staff member at the type III center other than the director or director designee, or as any type of staff member at a type I or type II center, including the director or the director designee of the type I or type II center; and

ii. Subsection B of this Section shall apply to all owners of type III centers, whether or not they are directors or director designees of type III centers in that such owners must:

(a). divest ownership of the type III center within 30 calendar days of receipt of the original notice of ineligibility from the department if no records review is requested, or within 30 calendar days of receipt of notice of continuing ineligibility from BESE if a records review is requested. The owner may continue to work at the center as a staff member other than the director or director designee, but may not continue to own the center; or

(b). change license types for the center from a type III to a type I or type II license within 30 calendar days of receipt of the original notice of ineligibility from the department if no records review is requested, or within 30 calendar days of receipt of notice of continuing ineligibility from BESE if a records review is requested and then may continue to own the center.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1 and 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:255 (February 2018), effective March 1, 2018, amended LR 45:

§1823. Review of Determinations of Ineligibility for Owners, Directors, or Director Designees of Type III Centers

A. A review of a determination of ineligibility for owners, directors or director designees of type III centers shall not be considered if it is based in part on any crime or event listed in §1805.A through C of this Chapter.

B. A review of a determination of ineligibility may only be considered for owners, directors or director designees of

type III centers if the determination is based solely on a crime of fraud listed in §1805.D of this Chapter.

C. A review of a determination of ineligibility based solely on a crime of fraud listed in §1805.D of this Chapter shall not be considered until at least five years have lapsed from the date of entry of the final conviction or plea which resulted in the determination of ineligibility.

D. An applicant may apply to the Board of Elementary and Secondary Education (BESE) for a review of his/her determination of ineligibility based solely on a crime of fraud listed in §1805.D of this Chapter after the lapse of time indicated above and under the following conditions:

1. There are no other crimes or events that would render the applicant ineligible to be an owner, director, or director designee of a type III center pursuant to §1805 of this Chapter other than a crime of fraud listed in §1805.D of this Chapter; and

2. There has been successful completion of all conditions/requirements of any parole or probation.

E. The applicant must provide relevant documentation, including:

1. documentation from the department that the determination of ineligibility is based solely on a crime of fraud listed in §1805.D of this Chapter and there are no other crimes or events that would prohibit the applicant from being eligible to be an owner, director, or director designee of a type III center; and

2. relevant documentation of all conditions and requirements of any parole and/or probation.

F. Applicant's responsibilities are as follows:

1. contact the BESE office and submit a written request for a review of records for a determination of ineligibility as an owner, director or director designee of a type III center based on a crime of fraud listed in §1805.D of this Chapter; and

2. provide each applicable item identified in Subsection D of this Section and any evidence of rehabilitation. It is recommended that the applicant provide letters of support from past/present employers, law enforcement officials or other community leaders.

G. BESE's Responsibilities

1. BESE or its designees will consider the request for a review of the determination of ineligibility and the documentation provided. BESE is not required to conduct a review of the determination and may summarily deny a request for review.

2. If BESE or its designees decide to conduct a records review of the determination, BESE staff shall notify the applicant of a date, time, and place when a BESE committee shall consider the applicant's request. Only written documentation provided prior to the records review will be considered.

3. BESE reserves the right to accept or reject any document as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible to be an owner, director or director designee of a type III center pursuant to §1805.D of this Chapter.

4. The BESE committee shall make a recommendation to the full board regarding whether the determination of ineligibility shall be changed to a determination of eligibility. Board staff shall notify the applicant of BESE's action.

5. BESE's action is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 12 p.m. (noon), December 10, 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 137—Louisiana Early Learning Center Licensing Regulations—Owners, Directors and Director-Designees of Type III Early Learning Centers Fraud and Felony Limitations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs or savings to state or local governmental units as a result of the proposed revisions which address eligibility determinations for certain child care center staff.

The proposed changes provide relative to owners, directors and director-designees of Type III centers, by reducing the number of crimes of fraud and limiting such felonies to those occurring within the past 10 years; provides for termination of employment, removal from the centers, as well as BESE review of such determinations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy revisions 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)

Owners, Directors and Director designees could benefit from the time limitations on fraud convictions; the ability to request a review of determinations of ineligibility; and the ability to continue working at the center as a staff member, (other than director or designee) if the determination is upheld. To the extent owners opt to convert the center to a Type I or Type II center, they will no longer be eligible to participate in the Child Care Assistance Program and receive state and federal funding. Furthermore, impacted individuals would no longer benefit from tax credits under the state School Readiness Tax Credit program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There could be increased demand for placement at other Type III centers if owners determined to be ineligible to operate Type III centers convert existing operations to a Type I or Type II center. Furthermore, the changes may affect individuals' ability to serve as child care center directors and director designees for certain centers, however, the extent of such impacts is indeterminable at this time.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1811#049	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Home Study Programs
(LAC 28:CXV.Chapter 33)

Under the authority granted in R.S. 17:6 and 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 proposes to amend *Bulletin 741—Louisiana Handbook for School Administrators*. The proposed amendments update terminology and requirements for home study programs.

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

Chapter 33. Home Study Programs

§3301. Definition

Home Study Program—a program that offers a sustained curriculum of quality, at least equal to that offered by public schools at the same grade level, and implemented under the direction and control of a parent, legal guardian, or tutor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 45:

§3305. Application Process

A. Initial Home Study Program Application

1. An initial application must be made within 15 days after the beginning of the program to the LDE, on behalf of BESE, for review and approval.

2. The initial application will be accompanied by a certified copy or a photocopy of the birth certificate of the student. The applicant must certify that the home study program will offer a sustained curriculum of quality at least equal to that offered by public schools at the same grade level.

3. For purposes of compulsory attendance, a child participating in an approved home study program will be considered in attendance in a day school.

B. Home Study Program Application Renewal

1. A renewal application must be made October 1 of the school year, or within 12 months of the approval of the initial application, whichever is later. Parents seeking continued approval are required to submit a renewal application each year.

2. A renewal application will be approved if the applicant submits to the LDE satisfactory evidence that the program offers a sustained curriculum of quality at least equal to that of public schools at the same grade level.

C. Initial and renewal applications will be approved if found to meet the requirements set forth in R.S. 17:236.1. Upon LDE approval, parents will receive an official approval verification letter. Because state law does not provide for any exceptions for the deadline for the approval of a home study program and does not allow for retroactive approval of a previous school year, it is the parent's responsibility to maintain a record of annual home study participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 39:2229 (August 2013), LR 45:

§3307. Instructor

A. A parent, legal guardian, or tutor will be permitted to provide instruction in a home study program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 45:

§3309. Curriculum

A. - A.4. …

B. A high school diploma awarded by a home study program approved by LDE, on behalf of BESE, is deemed by all public postsecondary education institutions, state departments, agencies, boards, commissions, and other state and local governmental entities to have the same rights and privileges afforded to a high school diploma awarded by a state-approved nonpublic school.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 37:1137 (April 2011), LR 39:2229 (August 2013), LR 42:1879 (November 2016), LR 45:

§3311. Testing

A. A parent or court-appointed custodian of a student in a home study program may request of the LEA superintendent or the state superintendent that the student be administered the LEAP tests in grades 3-8 under the following conditions:

1. - 5. …

B. Students enrolled in state-approved home study programs are not eligible to participate in LEAP connect, ELPT, or EOC tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 37:1138 (April 2011), LR 45:

§3313. Admission or Readmission to the Public School System

A. …

1. The policy includes a placement exam to determine grade-level placement.

2. Repealed.

B. - B.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 39:2230 (August 2013), LR 45:

§3315. Due Process

A. No public school will deny admission or readmission of a home study program student if that student is otherwise eligible for enrollment in a public school pursuant to state law, the policies of the local school board, and the Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 45:

§3317. Cost

A. All costs directly attributed to the home study program will be borne by the parent or court appointed custodian approved to offer such program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 39:2230 (August 2013), LR 45:

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 12 p.m. (noon), December 10, 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 741—Louisiana Handbook for School Administrators—Home Study Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs to the Department of Education or local school districts as a result of the proposed changes to guidelines for home study programs which clarify the application process for approval of home study programs, eliminate testing requirements, and include other technical changes for alignment with state law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Students completing home study programs will no longer be required to pass, and parents will no longer be required to pay for the cost of the HiSET exam in order for a student to receive a state equivalency diploma.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent

Evan Brasseaux
Staff Director

1811#048 Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—STEM Diploma Endorsements
(LAC 28:CXV.2317)

Under the authority granted in R.S. 17:6 and 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 proposes to amend *Bulletin 741—Louisiana Handbook for School Administrators*. The proposed amendments establish STEM diploma endorsements recognizing high school students who exhibit academic achievement in STEM discipline subjects. Students completing the required coursework in the BESE approved Jumpstart STEM pathways of LSU Digital Design and Emergent Media, LSU Pre-Engineering, and Environmental Protection and Sustainability will receive an endorsement on their high school diploma.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula
§2317. High Schools

A. - J.3.b. …

K. Science, Technology, Engineering, and Mathematics (STEM) Diploma Endorsement

1. Beginning with the 2018-2019 school year, high school students completing specified courses in STEM discipline subjects that comprise Jump Start STEM pathways will be eligible to receive the STEM diploma endorsement.

a. The STEM diploma endorsement is indicated with a silver diploma seal and is awarded to students who successfully complete a subset of required courses within a BESE-approved Jump Start STEM pathway, set forth by the LDE. The LDE will annually publish on its website a list of courses required for the STEM endorsement for each graduating class prior to the beginning of each school year and shall notify each LEA of any additions or revisions.

b. The advanced STEM diploma endorsement is indicated with a gold seal and is awarded to students who successfully complete all courses that make up a BESE-approved Jump Start STEM pathway.

2. Each LEA must:

a. provide information regarding the requirements to attain a STEM diploma endorsement to students and their parents or legal custodians as part of the individual graduation plan developed beginning in the eighth grade and updated annually; and

b. maintain records needed to verify the eligibility of students who have attained a STEM diploma endorsement, denote such attainment on the student transcript, and affix the applicable diploma seal to the high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:154, 17:1944, 17:1945, and 17:4073.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR

36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:1038 (April 2013), LR 39:2216 (August 2013), LR 40:1328 (July 2014), repromulgated LR 40:1528 (August 2014), amended LR 40:2530 (December 2014), LR 45:

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 12 p.m. (noon), December 10, 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 741—Louisiana Handbook for School Administrators—STEM Diploma Endorsements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be costs to the Department of Education to print and distribute the Science, Technology, Engineering, and Mathematics (STEM) diploma endorsements for students who complete the required coursework, however these costs are not anticipated to be material.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Students completing the required coursework in the BESE approved Jumpstart STEM pathways of LSU Digital Design and Emergent Media, LSU Pre-Engineering, and Environmental Protection and Sustainability will receive an endorsement on their high school diploma. Students entering the job market may qualify for higher wages due to the endorsement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Students graduating with a Jumpstart career diploma, which includes the STEM endorsement, may have an advantage in the job market when applying for certain employment.

Beth Scionieaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1811#046	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS Scores, Endorsements, and

Certification—Mathematics
(LAC 28:CXXXI.203, 348 and 648)

Under the authority granted in R.S. 17:6 and 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 proposes to amend *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The proposed amendments are related to PRAXIS scores, endorsements, and certification in the area of mathematics, requiring applicants to pass the middle school mathematics PRAXIS (5169) and the algebra I content exam (5162). Applicants will be required to hold a level 1 or higher certificate. These amendments allow candidates holding a "math for professionals" certificate to teach full- or part-time.

Title 28
EDUCATION
Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 2. Initial Teacher Certification
Subchapter B. Testing Required for Certification Areas
§203. PRAXIS Exams and Scores (Formerly §243)

A. - B. …

* * *

C. Certification Areas

1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
Certification Area	**Name of PRAXIS Test**	**Score**			**PLT 7-12**
Agriculture	Agriculture (0700) Prior to 6/8/14	510	---	---	157
	Agriculture (5701) Effective 6/8/14	147			
Algebra I	Algebra I (5162) Effective 8/14/18	157			
	Middle School Mathematics (5169)	165			
* * *					

* * *

C.2. - D. …

* * *

E. Administrative and Instructional Support Areas

Certification Area	Name of PRAXIS Test	Area Test Score
Educational Leader—Level 1	School Leaders Licensure Assessment (1011 or 6011)	166
	School Leaders Licensure Assessment (6990) Effective 9/1/2019	151 (Effective 9/1/2019)
* * *		

All Praxis scores used for certification must be sent directly from ETS to the state Department of Education electronically, or the original PRAXIS score report from ETS must be submitted with the candidate's application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 45:

Chapter 3. Teaching Authorizations and Certifications
Subchapter C. Ancillary Teaching Certificates
§348. Math for Professionals Certificate

A. …

B. Math for professionals certificate is valid for three years initially and allows an individual to teach one or more mathematics courses.

1. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:220 (February 2009), amended LR 39:1463 (June 2013), LR 40:281 (February 2014), LR 45:

Chapter 6. Endorsements to Existing Certificates
Subchapter C. All Other Teaching Endorsement Areas
§648. Algebra I

A. Eligibility requirements:

1. valid level 1 Louisiana teaching certificate or higher;
2. pass the PRAXIS middle school mathematics exam (5169);
3. pass the algebra I PRAXIS exam (5162).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1386 (July 2008), amended LR 39:1465 (June 2013), LR 40:281 (February 2014), LR 45:

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 12 p.m. (noon), December 10, 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 746—Louisiana Standards for State Certification of School Personnel—PRAXIS Scores, Endorsements, and Certification—Mathematics

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The fiscal implications for local school districts related to the proposed teacher certification changes are indeterminable. Teachers with a "Math for Professionals" certificate will now be eligible to teach on a full-time rather than a part-time only basis. The extent to whether this results in a potential cost savings or cost increase for a district is indeterminable and will likely vary across the districts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Teachers who seek the ancillary teaching certification for math and endorsement to the existing Algebra 1 certificate will benefit from the revised eligibility requirements. Teachers will now be able to teach on a full-time basis rather than only part time. Changes in the Algebra I endorsement may result in a reduction in costs for some due to the repeal of professional development program requirements, and an increase for others who will now be required to take the Praxis exam (with a fee of $120) rather than demonstrate college level coursework.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The new requirements may result in an increase in the number of teachers qualified for and competing for positions, however, due to the shortage of qualified math instructors this is not likely to have a material impact on competition, rather represents increased employment opportunities for these teachers.

Beth Scioneaux
Deputy Superintendent
1811#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Mentor Teacher and Content Leader Credentials
(LAC 28:XLV.303, 401, 743, and 747; CXXXI.203, 240, Chapter 3, Chapter 7 and 1001; CXXXVII.301; and CXLVII.101 and Chapter 3)

Under the authority granted in R.S. 17:6 and 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 proposes to amend:

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs,

Bulletin 746—Louisiana Standards for State Certification of School Personnel,

Bulletin 125—Standards for Educational Leaders in Louisiana, and

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel.

The proposed amendments establish mentor teacher and content leader credentials and provide for mentor and content leader training, experience, and credentialing to contribute to school leader licensure.

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

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

§303. Initial Approval
[Formerly §203]

A. - K. …

L. Providers seeking approval to offer a mentor teacher or content leader training program must submit:

1. a proposal from the director of the institution or organization that outlines the training design, coursework, and a system for evaluating the quality of training content, delivery, and operations, including analysis of the performance of participants;

2. evidence to show that the governing authority of the institution or organization endorses and financially supports mentor teacher or content leader training;

3. a full budget report for the implementation of training, including internal and external sources of funding:

a. university-based BESE-approved teacher preparation providers are exempt from this requirement;

4. evidence that the training program, if offered as a university course, will be offered for graduate credit; and

5. any additional information required by the state superintendent of education.

M. Mentor teacher and content leader training proposals will be accepted by the LDE and considered at least twice per year by BESE, beginning in the fall of 2019.

N. The LDE will review applications from providers to offer mentor teacher or content leader training. The state superintendent will provide a recommendation for the board's consideration for each complete application received. Upon approval by BESE, the provider may begin admitting candidates to the mentor teacher or content leader training program.

O. Candidates completing training programs from providers or programs not approved by BESE in accordance with this Section will not qualify to receive an ancillary certificate as a mentor teacher or content leader in accordance with LAC 28:CXXXI (Bulletin 746).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), 17:7(6), and 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), LR 45:

Chapter 4. Teacher and Leader Preparation Program Accountability, Renewal, and Approval

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

A. - D.2.d. …

E. Certification Preparation. In order to offer state-approved mentor teacher or content leader training that prepares individuals to earn a mentor teacher ancillary certificate or a content leader ancillary certificate in accordance with LAC 28:CXXXI (Bulletin 746), providers must follow the process detailed in Chapter 3 of this Part. For continued state approval, providers must demonstrate that training participants are earning effective ratings on the Louisiana mentor teacher assessment series or the Louisiana content leader assessment series.

F. Provider Effectiveness. By no later than December 1, 2019, and biannually thereafter, the LDE will review and report to BESE effectiveness data of each approved provider offering mentor teacher or content leader training. Effectiveness data will include Louisiana mentor teacher assessment series or Louisiana content leader assessment series passage rates and may include additional information. Based upon these results, BESE may require an improvement plan or may discontinue the provider's ability to recommend candidates for mentor teacher or content leader certification.

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

HISTORICAL NOTE: 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), LR 45:

Chapter 7. Louisiana State Standards for Educator Preparation Programs

Subchapter C. Teacher Preparation Programs

§743. Minimum Requirements for Traditional Teacher Preparation Programs

A. - C.1. …

2. a one-year residency shall take place in a public or approved non-public school 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 in accordance with LAC 28:CXXXI (Bulletin 746). Beginning September 1, 2020, the teacher of record shall be required to hold a provisional mentor teacher ancillary certificate or a mentor teacher ancillary certificate in accordance with LAC 28:CXXXI (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 in accordance with LAC 28:CXLVII (Bulletin 130):

C.2.a. - E.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1330 (July 2017), amended LR 43:2492 (December 2017), LR 45:

Subchapter D. Alternate Educational Leader Preparation Programs

§747. Educational Leader Practitioner (Residency) Program

A. State-approved non-university providers and Louisiana colleges or universities may choose to offer an educational leader practitioner (residency) program for certifying successful candidates for educational leader, level 1 certification. (Two additional alternate paths are available to individuals seeking an educational leader certificate level 1; see LAC 28:CXXXI.Chapter 7 (Bulletin 746), for paths 1 and 2.) Educational leader practitioner program providers must submit a program proposal to the Louisiana Department of Education. Programs will be reviewed for adherence to program requirements, and may be recommended to BESE for approval status.

1. - 4.b.iii. …

iv. A minimum of 45 contact hours (or 3 credit hours) may be earned through service as a mentor teacher or content leader in accordance with LAC 28:CXXXI (Bulletin 746), during the first or second session.

5. - 10. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1333 (July 2017), amended LR 45:

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 2. Initial Teacher Certification

Subchapter B. Testing Required for Certification

§203. Certification Exams and Scores [Formerly §243]

A. - D. …

* * *

E. Administrative and Instructional Support Areas

Certification Area	Name of Test	Area Test Score
Mentor Teacher	Louisiana Mentor Teacher Assessment Series—Elementary	6
	Louisiana Mentor Teacher Assessment Series—Secondary ELA	4
	Louisiana Mentor Teacher Assessment Series—Secondary Math	
	Louisiana Mentor Teacher Assessment Series—Universal	
Content Leader	Louisiana Content Leader Assessment Series	5
* * *		

All Praxis scores used for certification must be sent directly from ETS to the state Department of Education electronically, or the original Praxis score report from ETS must be submitted with the candidate's application. The mentor teacher certificate may be earned by passing one of the cohort-specific Louisiana mentor teacher assessment series tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 45:

Subchapter H. Other Certification Area Competencies

§240. Educational Leader Practitioner (Residency) Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:818 (May 2007), amended LR 38:42 (January 2012), amended LR 38:765 (March 2012), LR 39:1461 (June 2013), repealed LR 45:

Chapter 3. Teaching Authorizations and Certifications

Subchapter C. Ancillary Teaching Certificates

§341. Introduction

A. Types of Ancillary Certificates

1. Ancillary certificates are issued by the LDE for individuals who provide teaching, support, administrative, or supervisory services to children in pre-kindergarten through twelfth grade schools and early learning centers serving children from birth to five years old.

a. See Chapter 4 of this Part regarding ancillary certificates issued for individuals who provide support services in pre-kindergarten through twelfth grade schools and early learning centers serving children from birth to five years old.

b. See Chapter 7 of this Part regarding ancillary certificates issued for individuals who provide administrative and supervisory services in pre-kindergarten through twelfth grade schools.

2. Types of ancillary teaching certificates are as follows:

a. ancillary artist or talented;

b. early childhood ancillary;

c. nonpublic Montessori teacher;

d. family and consumer sciences (occupational programs);

e. Junior Reserve Officers Training Corps (JROTC) instructor;

f. math for professionals;

g. mentor teacher ancillary; and

h. content leader ancillary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1805 (October 2006), amended LR 41:917 (May 2015), LR 45:

§350. Mentor Teacher Ancillary Certificate

A. Beginning September 1, 2020, the mentor teacher ancillary certificate will be required for individuals who serve as a mentor of undergraduate or post-baccalaureate teacher residents.

B. Provisional Certification. Individuals serving as mentors who have not successfully completed a BESE-approved mentor training program will be issued a nonrenewable provisional mentor teacher ancillary certificate, which is valid for one calendar year from the date of issuance while the holder completes a BESE-approved mentor training program.

1. Eligibility requirements for the provisional mentor teacher ancillary certificate are as follows. A teacher must:

a.i. hold, or be eligible to hold, a valid type C, level 1 or higher Louisiana teaching certificate; or

ii. have at least two years of successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902, if teaching in a charter school without a valid type C, level 1 or higher certificate; and

b. enroll in a BESE-approved mentor training program.

C. Certification. Individuals who have completed a BESE-approved mentor teacher training program and have a passing score on the Louisiana mentor teacher assessment series will be issued a mentor teacher ancillary certificate.

1. Eligibility requirements for the mentor teacher ancillary certificate are as follows. A teacher must:

a.i. hold, or be eligible to hold, a valid type C, level 1 or higher Louisiana teaching certificate; or

ii. have at least two years of successful teaching, in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902, if teaching in a charter school;

b. successfully complete a BESE-approved mentor teacher training program; and

c. have a passing score on the Louisiana mentor teacher assessment series.

2. Individuals who successfully completes LDE mentor teacher training from November 1, 2017 through July 31, 2020, are eligible for the mentor teacher ancillary certificate after passing the Louisiana mentor teacher assessment series.

3. Individuals who hold National Board certification are eligible for mentor teacher ancillary certification after passing the coaching-related components of the Louisiana mentor teacher assessment series.

4. On September 1, 2023, the mentor teacher ancillary certificate will replace the supervisor of student teaching certificate. Individuals who were issued the supervisor of student teaching certificate on or before December 31, 2018, may serve as a mentor until August 31, 2023.

D. Certification Issuance. The LDE will begin issuing mentor teacher ancillary certificates no later than July 1, 2019.

E. Renewal Guidelines. Mentor teacher ancillary certificates are valid for five years and may be renewed at the request of the employing authority.

1. A request from an employing authority to renew a level 1, 2, or 3 certificate shall also serve as the request to renew the mentor teacher ancillary certificate.

2. Teachers in charter schools who do not hold a level 1, 2, or 3 certificate must successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902 in order to renew the mentor teacher ancillary certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

§351. Content Leader Ancillary Certificate (Optional)

A. The content leader ancillary certificate is an optional certificate that districts may require.

1. Eligibility requirements for the content leader ancillary certificate include that the candidate must:

a.i. hold, or be eligible to hold, a valid type C, level 1, or higher Louisiana teaching certificate; or

ii. have at least two years of successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902, if teaching in a charter school without a valid type C, level 1 or higher certificate;

b. successfully complete a BESE-approved content leader training program; and

c. have a passing score on the Louisiana content leader assessment series (see §203 of this Part).

2. Individuals who have successfully completed LDE content leader training from November 1, 2017 through July 31, 2020, in accordance with Paragraph 1 of this Subsection, are eligible for content leader ancillary certification.

B. The LDE will begin issuing content leader ancillary certificates to candidates no later than July 1, 2019.

C. Renewal Guidelines. The content leader ancillary certificate is valid for a period of five years and may be renewed at the request of the employing authority.

1. A request from an employing authority to renew a level 1, 2, or 3 certificate shall also serve as the request to renew the content leader ancillary certificate.

2. Teachers in charter schools who do not hold a level 1, 2, or 3 certificate must successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

Chapter 7. Administrative and Supervisory Credentials

Subchapter A. The Educational Leadership Certificate

§703. Introduction

A. The educational leadership certification structure provides for four levels of leader certification: teacher leader; educational leader level 1; educational leader level 2; and educational leader level 3. The teacher leader certificate is an option for a teacher to be identified as a teacher leader; it is not a state required credential for a specific administrative position. The educational leader level 1 certificate is an entry-level certificate for individuals seeking to qualify for school and/or district leadership positions (e.g., assistant principals, principals, parish or city supervisors of instruction, supervisors of child welfare and attendance, special education supervisors, or comparable school/district leader positions). An individual moves from a level 1 to a level 2 certificate after successfully meeting standards of effectiveness for three years pursuant to Bulletin 130 and R.S. 17:3902, and completing the required years of experience. The level 3

certificate qualifies an individual for employment as a district superintendent.

1. Teacher Leader. The teacher leader certificate is an option for a teacher to be identified as a teacher leader, and it is not a state-required credential for a specific administrative position.

2. Educational Leader, Level 2. An individual qualifies to upgrade from an educational leader, level 1 to an educational leader, level 2 certificate by:

a. successfully meeting standards of effectiveness for three years in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; and

b. completing the required years of experience.

3. Educational Leader, Level 3. The educational leader, level 3 certificate qualifies an individual for employment as a district superintendent.

B. Educational leadership preparation programs and induction programs must be aligned with state and national standards in accordance with LAC 28:CXXXVII.301 (Bulletin 125).

1. - 3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1822 (October 2006), amended LR 33:819 (May 2007), LR 38:42 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 45:

§705. Educational Leader, Level 1 (EDL 1) Certificate

A. The EDL 1 certificate is needed for school and district educational leadership positions (e.g., assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, special education supervisor, or comparable school/district leader positions). The certificate is issued upon the request of the LEA once the individual is hired to serve as an educational leader. An EDL 1 certificate may be obtained through either a master's degree pathway or through one of three alternate pathways.

1. - 1.a. …

b. complete a competency-based graduate degree preparation program in the area of educational leadership from a regionally accredited institution of higher education, which may be inclusive of BESE-approved mentor teacher or content leader training; and

1.c. - 2.b. …

c. meet competency-based requirements, as demonstrated by completion of an individualized program of educational leadership from a regionally accredited institution of higher education. An individualized program will be developed based on a screening of candidate competencies upon entering into a graduate alternative certification program. Service as a mentor teacher, content leader, or BESE-approved mentor teacher or content leader training may fulfill a maximum of 40 percent of an individualized program; and

2.d. - 3.b. ...

c. provide documented evidence of leadership experiences (240 clock hours or more) at the school and/or district level, including service as a mentor teacher or content leader (up to 100 clock hours); and

3.d. - 4.b. ...

c. complete a competency-based educational leader practitioner/residency preparation program in the area of educational leadership from a non-university provider or a regionally-accredited institution of higher education. Service as a mentor teacher, content leader, or BESE-approved mentor teacher or content leader training may fulfill a maximum of 40 percent of the competency-based program; and

4.d. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:819 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 43:1313 (July 2017), LR 45:

§713. Educational Leader Certification Implementation Timeline

A. By the spring of 2019, the LDE will:

1. develop and recommend to BESE the adoption of a Louisiana leadership assessment series (LLAS) that serves as an alternative to the Praxis school leaders licensure assessment (SLLA) and that will be inclusive of assessment components from the Louisiana mentor teacher assessment series and the Louisiana content leader assessment series;

2. pilot and study the LLAS in the winter of 2019, to ensure suitability for its use as a required assessment for the educational leader level 1 certification:

a. candidates for the educational leader, level 1 certification who earn a passing score on the LLAS during the pilot phase will be eligible for the educational leader, level 1 certificate, provided that the candidate has met all other requirements for the master's degree pathway or one of three alternate pathways; and

3. review and report on the efficacy of the assessment, including, but not limited to, the passage rates and the number of educational leader, level 1 certificates issued.

B. Beginning in the spring of 2019, the LDE will begin issuing:

1. mentor teacher ancillary certificates upon successful completion of the Louisiana mentor teacher assessment series in accordance with §350 of this Part; and

2. content leader ancillary certificates upon successful completion of the Louisiana content leader assessment series in accordance with §351 of this Part.

D. Prior to September 1, 2019, the LDE will:

1. review Chapters 3 and 7 of this Part; and

2. recommend revisions to BESE as necessary and based on findings from a learning phase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S 17:3886.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

Subchapter D. Educational Leadership Title Equivalencies

§761. Title Equivalencies

A. Certification Endorsement and Licensure Structure

Educational Leadership Title Equivalencies		
Administrative Guidelines per Bulletin 741	**Certification Endorsement Prior to Educational Leader Licensure Structure**	**Certification under Educational Leader Licensure Structure**
* * *		
Child Welfare and Attendance Supervisor	Supervisor of Child Welfare and Attendance and/or Visiting Teacher	Educational Leader Level 1 Educational Leader Level 2
Principal or Assistant Principal	Provisional Elementary Principal Elementary Principal Provisional Secondary Principal Secondary Principal Provisional Principal Principal Combination School Principal	Educational Leader Level 1 Educational Leader Level 2
Supervisor	Parish/City Supervisor of Instruction	Educational Leader Level 1 Educational Leader Level 2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1828 (October 2006), amended LR 45:

Subchapter E. All Other Supervisory Endorsements

§787. Supervisor of Student Teaching Certificate

A. - B.4. ...

C. On September 1, 2023 the mentor teacher ancillary certificate will replace the supervisor of student teaching certificate. Educators who were issued a supervisor of student teaching certificate on or before December 31, 2018, may serve as a mentor teacher until August 31, 2023.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1829 (October 2006), amended LR 37:2136 (July 2011), LR 45:

Chapter 10. Definitions

§1001. Terms

* * *

Content Leader—a teacher who is responsible for delivery of professional development aligned with state academic standards. The content leader is formally certified and has the knowledge, skills, and resources to provide high-quality, content-rich, and curriculum-specific professional development to yearlong residents, new teachers, and/or developing teachers in need of instructional support.

Content Leader Ancillary Certificate—a type of certificate that authorizes an individual to serve as a school- or district-based instructional expert who is responsible for delivery of professional development that is aligned with state content standards found throughout the Louisiana Administrative Code, Title 28, Education.

* * *

Mentor Teacher—a teacher who supports aspiring teachers participating in undergraduate and post-baccalaureate residencies or experienced teachers. Mentor teachers use a cycle of coaching focused on instructional decisions that meet the needs of all students. Mentors may co-teach with yearlong residents or may support teachers without co-teaching. Mentors may also support new teachers or developing teachers in need of coaching, including teachers with an intensive assistance plan, in accordance with LAC 28:CXLVII (Bulletin 130).

Mentor Teacher Ancillary Certificate—a type of certificate that authorizes an individual to serve as a mentor for undergraduate or post-baccalaureate teacher residents.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 37:560 (February 2011), LR 43:1314 (July 2017), LR 45:

Part CXXXVII. Bulletin 125—Standards for Educational Leaders in Louisiana

Chapter 3. Professional Standards

§301. Professional Standards for Educational Leaders

A. The state Department of Education has adopted the National Policy Board for Educational Administration's Professional Standards for Educational Leaders (PSEL), 2015 edition, as standards for educational leaders, which aligns to the Louisiana state standards for educational leaders as defined by performance expectations 1-6 outlined in this Chapter.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1335 (July 2007), repromulgated LR 37:861 (March 2011), amended LR 45:

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 1. Overview

§101. Guidelines of the Program

A. In accordance with R.S. 17:391.2 et seq., and this Part, each LEA must develop a uniform system for the annual evaluation of certified and other professional personnel.

B. The guidelines approved by BESE to strengthen local teacher evaluation programs include the components of effective teaching in §901 of this Part and the Performance Expectations and Indicators for Educational Leaders, 2008 edition.

C. The requirements referred to in Subsection B of this Section will form the basis for the local evaluation programs.

D. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2250 (October 2010), amended LR 38:1214 (May 2012), LR 45:

Chapter 3. Personnel Evaluation

§307. Observation Tools

A. LEAs must utilize an observation tool to conduct a qualitative assessment of teacher, content leader, mentor teacher, and administrator performance that is not based on

measurements of growth in student learning and will represent 50 percent of all evaluations.

B. - B.2. …

3. Observation tools for content leader and mentor teacher evaluation shall align to the components of effective teaching in §901 of this Part and the Performance Expectations and Indicators for Educational Leaders, 2008 edition, as well as the competencies for content leaders or mentor teachers in LAC 28:CXXXI.350 and 351.

C. - D.5. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:2360 (September 2012), LR 45:

§311. Evaluators

A. - B. …

1. Other designees, such as instructional coaches, content leaders, master teachers, and mentor teachers may conduct observations to help inform the evaluator assessment of teacher performance. These designees shall be recorded as additional observers within the accountability relationships register.

C. - D.3. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1217 (May 2012), amended LR 38:2360 (September 2012), LR 45:

§325. Extenuating Circumstances

A. - C. …

D. In the event that a yearlong resident has substantially negatively impacted student learning in the mentor teacher classroom, the district superintendent or CEO may submit a written request to the state superintendent for invalidation of student achievement growth data with relation to the value-added assessment model, in accordance with processes and timelines set forth by the LDE.

E. In cases where value-added data is invalidated, the principal or designee will have the discretion to determine the evaluation rating, based on the evidence available from students learning targets and observations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1220 (May 2012), amended LR 38:2361 (September 2012), LR 39:1274 (May 2013), LR 40:761 (April 2014), LR 45:

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 12 p.m. (noon), December 10, 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: Mentor Teacher and Content Leader Credentials

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be decreased costs for the state Department of Education (LDE) and increased costs for public universities which offer certain educator training programs, as well as potential increases for local school districts due to the changes in Bulletins 746 and 996 transferring the mentor teacher and content leader training and assessment responsibilities to education providers, and other individuals. Revisions to Bulletins 125 and 130 regarding professional stadards are technical in nature and not anticipated to result in any costs or savings.

Beginning in September 2017, the LDE entered into multiple professional services contracts for the purpose of mentor teacher and content leader training and professional development and assessments totaling approximately $15 M and funded with a mix of state and federal funds. These contracts will end at the end of fiscal year 2020, at which time public universities and private providers will be responsible for providing mentor teacher and content leader training for the purpose of issuing ancillary certificates required of such teachers. Approximately $8.6 M of this funding stems from one-time federal grants, however, recurring dollars will be available to fund other initiatives of the LDE, which may or may not include teacher preparation activities.

Public Universities will incur indeterminable costs to develop and provide mentor teacher and content leader training programs as required in Bulletin 996. Costs will vary depending upon the content and curriculum adopted or developed by the provider; the structure of the training programs (e.g. consecutive training days or semester long coursework); the number of teachers enrolled in such training; and the existing resources of the institution. Furthermore, ongoing approval of such programs will be contingent upon teacher effectiveness criteria and data as determined by BESE. Based on the results of this data, mandated improvement plans could require that Universities provide additional resources to improve training programs. University costs are funded with a mix of state dollars and self-generated funds; potential support funding may be made available from the LDE, but has not been identified at this time.

Local school districts may incur costs to support the cost of obtaining certification for mentor teachers. Costs will depend upon the structure, length and timing of the training program which may require substitute teachers for those teachers engaged in mentor training. Additionally, some districts may provide stipends, and reimbursement for travel and hotel expenses associated with training events. These costs may be reduced to the extent training is provided on-site rather than at provider sites. Further, since the LDE will reduce the level of training and professional develop provided to date, districts may choose to expand current professional development activities to offset such reductions which may not be addressed through new training from university providers. It is unknown whether any such training may be incorporated into existing professional development activities to reduce costs. These costs will vary by district, and depend upon the number of teachers seeking the certification, the resources of the district, the structure of the training, and the proximity to the providers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Universities which offer mentor teacher or content leader training programs may realize an increase in self-generated revenues in the form of tuition payments from teachers seeking the required training. However, for programs that fail to meet established effectiveness criteria, BESE may discontinue the provider's ability to recommend candidates for certification, which could represent a revenue loss for the institution. Additionally, changes to the educational leader practitioner (residency) program allowing for certain contact hours to be considered credit hour equivalents may reduce the need for additional coursework and the related tuition revenues for the institutions. The net impact will vary by institution depending upon the training program offered, the amount of tuition assessed, and the number of teachers enrolled at the institution and is indeterminable at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Teachers who currently serve as mentor teachers and content leaders will incur costs to obtain the ancillary certificate required in Bulletin 746 in order to continue that role beginning in the 2019-2020 school year. Training programs have not yet been developed and submitted to BESE for approval, thus the length, curriculum requirements, and costs of such programs and related fiscal impacts are indeterminable at this time. School districts and charter schools may assume some or all of the cost of certification, including assessment costs, but this will vary by district and school and cannot be estimated at this time. Furthermore, beginning in fiscal year 2021, teachers will be responsible for the cost of the assessment series in order to obtain the certificate, estimated to be $175. The LDE anticipates providing funding of approximately $44,000 each year to pay the assessment costs for 250 teachers. Finally, those teachers who currently serve as mentors and who do not obtain the required certificate will no longer be eligible to serve as teacher of record for resident students and will no longer be eligible for the mentor teacher $1,000 stipend which is currently paid through the LDE.

Private providers which offer mentor teacher or content leader training programs will realize the same impacts as public University providers in terms of costs for program development and implementation, and increases in self-generated revenues in the form of tuition payments from teachers seeking the required training. However, for programs that fail to meet established effectiveness criteria, BESE may discontinue the provider's ability to recommend candidates for certification, which could rpresent a revenue loss for the provider. Additionally, changes to the educational leader practitioner (residency) program allowing for certain contact hours to be considered credit hour equivalents may reduce tuition revenues. The net impact will vary by provider depending upon the training program offered, the amount of tuition assessed, and the number of teachers enrolled and is indeterminable at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not clear what the potential impact may be if teachers opt not to participate in the additional training requirements to obtain an ancillary certificate. Teachers have one year to complete the training and assessment in order to obtain the ancillary certificate. The LDE has a goal of certifying 2,000

mentor teachers in traditional and charter schools to serve as teachers of record for resident teachers, and mentor teachers for those seeking alternative certifications.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1811#043	Legislative Fiscal Office

NOTICE OF INTENT

Board of Regents

Licensure of Degree Granting Institutions
(LAC 28:IX.Chapters 1 and 3)

The Louisiana Board of Regents announces its intention to amend its rules for Registration and Licensure and Criteria and Requirements for Licensure (R.S. 17:1808) of academic degree granting institutions.

The proposed Rule changes restate existing language and add language for clarifying purposes in regards to public and private postsecondary institutions' registration and license applications, license fees, physical plant standards, and maintenance of records.

Title 28
EDUCATION
Part IX. Regents

Chapter 1. Rules and Registration for Licensure

§103. Registration and License Applications

A. All public and private postsecondary, academic degree-granting institutions offering instruction in the state of Louisiana must register annually with the Board of Regents. Regular licenses are reviewed every two years. Requests for registration forms and license applications are available at www.regents.la.gov.

B. Completed registration forms and license applications should be returned to:

Louisiana Board of Regents
Planning, Research, Performance and Academic Affairs - Licensure
P.O. Box 3677
Baton Rouge, Louisiana 70821-3677

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 36:2839 (December 2010), LR 39:84 (January 2013), LR 45:

§105. License Fees

A. All license applications must be accompanied by a non-refundable fee of $1,500.00 (approved by Louisiana Legislature Act 278 of the 2012 Regular Legislative Session). The license application fee must be paid by company or institutional check or by money order, and should be made payable to the Louisiana Board of Regents. Any institution granted a license to operate will be required to pay an additional $1,500.00 at the start of the second year of the two-year licensing period. License renewal fees are required during each subsequent two-year licensing period and are non-refundable. However, the initial license application fee may be reduced to $200 for those institutions seeking initial licensure in order to allow clinical practicum experiences for fewer than five Louisiana residents enrolled in nursing and other health-related programs only. In order to continue and renew their licenses, those institutions will be required to pay all subsequent fees, including renewal fees. License renewal fees are required during each subsequent two-year licensing period and are nonrefundable.

B. …

C. The Board of Regents may authorize assessment of special or supplemental fees to be paid by institutions seeking licensure pursuant to special actions or requests.

D. Institutions seeking licensure shall submit all required materials and the nonrefundable license fee to the Board of Regents. If a final determination concerning the institution's qualifications for licensure is not reached within 180 days of receipt of the license application and all supporting materials, a provisional license will be issued to the institution. The provisional license will remain in effect pending a final licensing decision by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 36:2839 (December 2010), LR 39:84 (January 2013), LR 45:

§107. Information Requirements for Registration[1]

A. All postsecondary, academic degree-granting institutions are required to provide the following information on an annual basis:

1. - 8. …

9. information relative to the institution's accreditation or official candidacy status from a regional, national or professional accrediting agency recognized by the United States Department of Education;

10. …

[1]Registration with the Board of Regents shall in no way constitute state approval or accreditation of any institution and shall not be used in any form of advertisement by any institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 45:

Chapter 3. Criteria and Requirements for Licensure

§302. Institutional Accreditation

A. Institutions must hold accreditation through an association recognized by the U.S. Department of Education. Institutions domiciled outside the state of Louisiana must be fully accredited by an accrediting body recognized by the U.S. Department of Education prior to making an application for licensure with the Board of Regents. Existing institutions domiciled in the state of Louisiana must hold recognized accreditation. New institutions must make formal application and obtain accreditation from a U.S. Department of Education recognized accrediting association by date certain as a requirement for licensure.

B. …

C. The Board of Regents will consider a waiver of the accreditation requirement in the case of single purpose institutions. This consideration will be given only in extraordinary circumstances where the board determines that

it would be educationally impractical for an institution to reorganize its programs and operations in order to become eligible for consideration by a U.S. Department of Education recognized accrediting association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:168 (February 1995), amended LR 36:2840 (December 2010), LR 45:

§305. Academic Program Standards

A. - E. …

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010), LR 38:1228 (May 2012), LR 45:

§307. Physical Plant Standards

A. Library

1. Depending on the delivery method of instruction, (online, hybrid, brick and mortar), the institution shall maintain and/or provide student access to an appropriate library collection with adequate support staff, services, and equipment. Any contractual agreements with libraries not directly affiliated with the institution shall be available in writing to the Board of Regents.

B. Facilities and Equipment

1. The institution shall maintain or provide access to appropriate administrative, classroom, and laboratory space, and appropriate equipment and instructional materials to support quality education based on the type, level, and delivery method of program being offered. Facilities must comply with all health and safety laws and ordinances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 38:1228 (May 2012), LR 45:

§309. Financial Operations

A. - B. …

C. All institutions shall provide the Board of Regents with a financial review prepared in accordance with standards established by the American Institute of Certified Public Accountants. However, an institution accredited by an agency recognized by the United States Department of Education may, at its discretion, submit financial statements prepared in accordance with rules and guidelines established by the accrediting agency.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 45:

§311. Maintenance of Records

A. - B. …

C. Individual student records must include:

1. - 4. …

5. a payment schedule which includes the total cost to the student.

6. - 8. Repealed.

D. Student records must also include:

1. - 2. …

3. counseling records;

4. a transcript;

5. financial aid records.

E. …

F. All licensed institutions are required to have a plan for the maintenance, safekeeping and retention of student records in the event of an institutional closure. The plan must contain the arrangements made by the institution and procedures students must follow in order to obtain their records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), LR 45:

§313. Student Services[1]

A. Institutions shall provide appropriate orientation and counseling services throughout enrollment. Special services including financial aid, employment placement for graduates, and student housing, if appropriate, must be evaluated periodically by the institution to determine effectiveness in meeting student needs and contribution to the educational purpose of the institution.

[1]The Board of Regents recommends that prospective students seek independent job/career counseling prior to enrollment in an academic degree-granting postsecondary institution and encourages such institutions to promote this recommendation.

AUTHORITY NOTE: Promulgated in accordance with 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 45:

§317. Procedures for Tuition and Fee Refunds

A. Pricing and Refund Policy

1. - 3. …

4. Institutions are required to follow the minimum standards for tuition refunds as set forth herein. These guidelines are:

a.- c.ii. …

iii. students withdrawing from day 25 through the end of the quarter, semester, or similar time period may be ineligible to receive a refund;

d. - e. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010), LR 45:

§319. Surety Bonding

A. New Louisiana domiciled unaccredited institutions are required to post a surety bond issued by a surety authorized to do business in the state of Louisiana in the amount of $10,000 to cover the period of the license. These bonds are intended to protect students in the event of a sudden closure of the institution. Institutions that are also licensed and bonded under provisions set forth by R.S. 17:-3141 et seq., need not seek additional bonding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended LR 36:2840 (December 2010), LR 45:

§327. Licensure Denial

A. Any institution denied licensure by the Board of Regents that wishes to seek reconsideration by the Board is required to wait a minimum of 24 months before resubmitting its license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:170 (February 1995), amended LR 45:

Family Impact Statement

The proposed Rule will have no foreseeable impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business 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 changes via U.S. Mail until 4:30 p.m., December 10, 2018 to LeAnn Detillier at P.O. Box 3677 Baton Rouge, LA 70821. Written comments may also be hand-delivered to the Board of Regents Office, 1201 North Third Street, Suite 6-200, Baton Rouge, LA 70802.

Larry Tremblay
Deputy Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure of Degree Granting Institutions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not have any implementation costs to the state or local government units. The proposed rule changes restate existing language and add language for clarifying purposes in regards to public and private postsecondary institutions' registration and license applications, license fees, physical plant standards, and maintenance of records.

These changes include the location of the registration/licensure forms on the internet, fee schedule, accreditation status of new and existing institutions, requirements for Education and Education Leadership programs to match changes made by the Board of Elementary and Secondary Education (BESE), online programs' library requirements, the maintenance, safekeeping and retention of student records in the event of the institution's closure, and the removal of the surety bonding requirement for institutions with recognized accreditation. The proposed rule changes do not change the frequency or the amount of fees or impose additional requirements to institutions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no estimated effect on revenue to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will have no effect on costs and/or benefits 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.

Larry Tremblay	Evan Brasseaux
Deputy Commissioner	Staff Director
1811#024	Legislative Fiscal Office

NOTICE OF INTENT

Board of Regents
Office of Student Financial Assistance

Scholarship/Grant Programs Chafee Educational and Training Voucher Program (LAC 28:IV.1805 and 1813)

The Louisiana Board of Regents announces its intention to amend and repromulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)].

This rulemaking implements the Family First Prevention Services Act of 2018 as it relates to the eligibility of students to participate in and receive funding under the federal Chafee Educational and Training Voucher Program. (SG19184NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 18. Chafee Educational and Training Voucher Program

§1805. Eligibility

A. To establish eligibility through the 2017-2018 academic year, a student must:

1. be ages 16 to 21, except that a student who was participating in the Chafee ETV Program at age 21 may continue to receive ETVs until he attains the age of 23; and
2. be in the foster care system, or aged out of the foster care system, or was under legal guardianship, or was in the foster care system or under legal guardianship and was adopted after age 16; and
3. be enrolled in postsecondary education; and
4. annually complete the free application for federal student aid.

B. To establish eligibility beginning in the 2018-2019 academic year, a student must:

1. be ages 14 to 26;
2. be in the foster care system, aged out of the foster care system, exited the foster care system through legal guardianship or adoption after attaining the age of 16, or was in the foster care system after the age of 14 and exited for reasons other than adoption, guardianship, or aging out; and
3. be enrolled in postsecondary education; and
4. annually complete the free application for federal student aid.

C. To continue to receive Chafee ETV through the 2017-2018 academic year, a student must:

1. not have attained the age of 21, or the age of 23 if the student was receiving a Chafee ETV at the age of 21 and received the Chafee ETV continuously; and

2. be making satisfactory academic progress in his program of study.

D. To continue to receive Chafee ETV beginning in the 2018-2019 academic year, a student must:

1. not have attained the age of 26; and

2. be enrolled in postsecondary education; and

3. not have participated in the program for more than five years, whether or not consecutively; and

4. be making satisfactory academic progress in his program of study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2548 (November 2010), amended LR 40:52 (January 2014), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:555 (March 2018), LR 45:

§1813. Responsibilities of the Louisiana Department of Children and Family Services (DCFS)

A. Through the 2017-2018 academic year, DCFS shall verify that a student:

1. was in the foster care system, or aged out of the foster care system; or

2. was under legal guardianship; or

3. was in the foster care system or under legal guardianship and was adopted after age 16; or

4. is a Native American whose Indian tribe has an approved plan under Title IV-E of the Social Security Act for foster care, adoption assistance, and kinship guardianship within that Indian tribe.

B. Beginning in the 2018-2019 academic year, DCFS shall verify that a student:

1. be in the foster care system, aged out of the foster care system, exited the foster care system through legal guardianship or adoption after attaining the age of 16, or was in the foster care system after the age of 14 and exited for reasons other than adoption, guardianship, or aging out; or; or

2. is a Native American whose Indian tribe has an approved plan under Title IV-E of the Social Security Act for foster care, adoption assistance, and kinship guardianship within that Indian tribe.

C. DCFS will notify LOSFA of any students who are eligible to receive a Chafee ETV and for whom LOSFA did not previously request verification in accordance with §1817.A, including those students who may be attending school in a state other than Louisiana.

D. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, DCFS shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2549 (November 2010), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:556 (March 2018), LR 45:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in LSA-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 changes (SG19184NI) until 4:30 p.m., December 10, 2018, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs Chafee Educational and Training Voucher Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not have any implementation costs to the state or local government units. The proposed rule changes are required to comply with the federal Family First Prevention Services Act of 2018 to implement Chafee Education and Training Voucher (ETV) eligibility changes.

The proposed rule changes revise the ages of eligibility from 16 through 21 to 14 through 26. The Chafee Education and Training Voucher (ETV) provide federal grants to students from the foster care system to access post-secondary education or training. This is an existing program paid with federal funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are anticipated to have a minimal impact on revenue collections at state colleges and universities. The proposed rule changes codify federal rule changes to the ages of eligibility for students to receive the Chafee Education and Training Voucher. Students that otherwise would not have accepted the award may take advantage of the expanded ages of eligibility; however, the Louisiana Office of Student Financial Assistance (LOFSA) anticipates it will not significantly increase the participation rates in the program. Over the last five years (FY 14 – FY 18), there have been 264 students (an annual average of 53 students) that have received this voucher at an annual average cost of $230,630 and per student cost of $4,368. The maximum annual voucher amount is $5,000 or $2,500 per semester.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may impact students, institutions, and the workforce by providing additional student aid to disadvantaged students to access postsecondary education. These students may attend an in-state school to further their education and remain in Louisiana upon completion of their

education. This could provide Louisiana employers a better-educated workforce.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes provide greater access to students to attend post-secondary institutions. This is anticipated to increase the number of educated/trained workers in the state, which will have a positive impact on competition and employment.

Robyn Rhea Lively	Evan Brasseaux
Senior Attorney	Staff Director
1811#015	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Architectural Examiners

Continuing Education
(LAC 46:I.1315)

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), proposes to amend LAC 46:I.1315 pertaining to the continuing education of architects.

R.S. 37:145(B) provides that persons licensed by the board to practice architecture may, by rule of the board, be required to earn annually up to 12 hours of board-approved continuing education pertaining to building-design in connection with public health, safety, and welfare. Section 1315.C defines health, safety, and welfare subjects, and §1315.D requires that architects, unless exempt, complete a minimum of 12 continuing education hours each calendar year in health, safety, and welfare subjects as a condition of renewing registration.

During 2018, the 54 member boards of the National Council of Architectural Registration Boards (NCARB) voted to align the health, safety, and welfare subjects with the current experience areas of the Architectural Experience Program (AXP—the program one must complete to meet the experience requirement for licensure) and the practice areas of the Architect Registration Examination (ARE—the examination one must pass to meet the examination requirement for licensure). The board supported this recommendation. The purpose of the proposed amendment to §1315.C is to align the health, safety, and welfare subjects in the continuing education rules with the current experience areas of the Architectural Experience Program (AXP) and the practice areas of the Architect Registration Examination (ARE).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects

Chapter 13. Administration

§1315. Continuing Education

A. - B.3. …

C. Definitions

* * *

Health, Safety, and Welfare Subjects—technical and professional subjects related to the practice of architecture that the board deems appropriate to safeguard the public and that are within the following continuing education subject areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

a. Practice Management. This category focuses on areas related to the management of architectural practice and the details of running a business.

b. Project Management. This category focuses on areas related to the management of architectural projects through execution.

c. Programming and Analysis. This category focuses on areas related to the evaluation of project requirements, constraints, and opportunities.

d. Project Planning and Design. This category focuses on areas related to the preliminary design of sites and buildings.

e. Project Development and Documentation. This category focuses on areas related to the integration and documentation of building systems, material selection, and material assemblies into a project.

f. Construction and Evaluation. This category focuses on areas related to construction contract administration and post-occupancy evaluation of projects.

* * *

D. - J.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:565 (April 2003), amended LR 33:2419 (November 2007), LR 38:1012 (April 2012), LR 40:1693 (September 2014), LR 45:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 40:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on child, individual, or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments to Katherine E. Hillegas, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 4:30 p.m., December 10, 2018.

Katherine E. Hillegas
Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units as a result of the proposed rule change.

The purpose of the proposed rule change is to align the Health, Safety, and Welfare (HSW) continuing education subjects with the current experience areas of the Architectural Experience Program (AXP) and the practice areas of the Architect Registration Examination (ARE) which will expand the number of qualifying educational topics. These modifications will not impact the number of HSW continuing education hours required each calendar year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact to 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)

Approved HSW continuing education providers will now have the opportunity to develop new educational programs, which may allow for additional courses to be provided and the potential for additional revenue. Although the number of required HSW continuing education hours will remain the same, architects may now have the opportunity to earn these hours through different subject matters with course costs and instructional methods varying among providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment as a result of the proposed rule change.

Katherine E. Hillegas	Evan Brasseaux
Executive Director	Staff Director
1811#028	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Architectural Examiners

Rules of Conduct (LAC 46:I.1901)

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), proposes to amend LAC 46:I.1901 pertaining to the rules of conduct of architects.

The proposed Rule amends, restates, and clarifies the existing rules of conduct to ensure that they remain relevant to contemporary architectural practice and ensure the expected professional and ethical conduct of architects found in law remain focused on the protection of the health, safety, and welfare of the public. The proposed rules are modeled after the Model Rules of Conduct favorably voted upon by the Member Boards of the National Council of Registration Boards during the 2018 NCARB Annual Business Meeting.

The proposed changes to LAC 46:I.1901.A are primarily clarifications concerning the competence of an architect. More specifically, proposed changes to existing LAC 46:I.1901.A.1 add to the first sentence the clause "primary duty is to protect the public's health, safety, and welfare," and add to the second sentence the clause "[i]n discharging that duty, an architect," delete "which is," and replace the word "of" with "in." The proposed changes to existing LAC 46:I.1901.A.2 in the first sentence replace the word "all" with "the," add the word "federal," and replace the word "municipal" with "local," and in the second sentence add the words "law and." The proposed changes to existing LAC 46:I.1901.A.3 replace the words "undertake to" with "perform," replace the words "he or she" with "the architect," and replace the clause "as consultants, are qualified by education, training, and experience" with "has the necessary knowledge and skill." The proposed changes to the first sentence of existing LAC 46:I.1901.A.4 replace the words "[n]o person" with "[a]n architect shall not," replace the words "such person's" with "the architect's," and delete the clause "by physical or mental disabilities," and add a second sentence, "[t]he assessment of impairment should be performed by an appropriately qualified professional." The commentaries to proposed LAC 46:I.1901.A.1 and LAC 46:I.1901.A.4 are new. The existing commentaries to LAC 46:I.1901.A are deleted, except the existing commentary to existing LAC 46:I.1901.A.3 is retained.

The proposed changes to LAC 46:I.1901.B are primarily clarifications to the existing rules concerning conflict of interest. More specifically, the proposed changes to LAC 46:I.1901.B.1 replace the word "for" with "in connection with," replace "to and agreed to (such disclosure and agreement to be in writing)" with "waived in writing," and replace "interested parties" with "parties." Existing LAC 46:I.1901.B.2 is deleted. Proposed LAC 46:I.1901.B.2 is existing LAC 46:I.1901.B.3, except the words "in return" are deleted, the words "in connection with a project" are added, and the second sentence is new. Proposed LAC 46:I.1901.B.3 is new; it contains part of existing LAC 46:I.1901.B.2. The proposed changes to LAC 46:I.1901.B.4 replace the word "[w]hen" with "[a]n architect when," add the clause "by agreement of the parties," add the word "independent," replace the word "and" with "or as," and delete the words "an architect" and "favoring neither party to the contract." Proposed LAC 46:I.1901.B.5 concerns the relationship between an AXP Supervisor and a candidate for licensure, and it is new. The commentaries to proposed LAC 46:I.1901.B.2, LAC 46:I.1901.B.4, and LAC 46:I.1901.B.5 are new. The existing commentaries to LAC 46:I.1901.B are deleted, except the existing commentary to existing LAC 46:I.1901.B.1 is retained.

The proposed changes to LAC 46:I.1901.C are primarily clarifications to the existing rules concerning full disclosure. More specifically, proposed LAC 46:I.1901.C.1 is new. Proposed LAC 46:I.1901.C.2 are changes to existing LAC 46:I.1901.C.1, replacing the word "questions" with "matters," and replacing the clause "when he or she is being compensated for making such statement or when he or she" with "if the architect is being compensated for making such statements." Proposed LAC 46:I.1901.C.3 are changes to existing LAC 46:I.1901.C.2, replacing the clauses requiring an architect to "accurately represent to a prospective or existing client or employer his or her" and "and the scope of his or her responsibility in connection with work for which he or she is claiming credit" with a prohibition against the architect misrepresenting "the architect's qualifications,

capabilities, and experience or that of the architect's firm." Proposed 46:I.1901.C.4 is a clarification of existing LAC 46:I.1901.C.3, replacing "[t]he architect" with "[a]n architect," and changing the prohibition against an architect misrepresenting or exaggerating "his or her associate's academic or professional qualifications" or the scope of "his or her degree of responsibility in or for the subject matter or prior assignments" with a prohibition against an architect misrepresenting or overstating the architect's responsibility "in connection with work for which the architect or the architect's firm is claiming credit." The third sentence of existing LAC 46:I.1901.C.3 is made commentary. The first sentence of proposed LAC 46:I.1901.C.5.a is a clarification of the first sentence of existing LAC 46:I.1901.C.4.a, replacing the words "his or her" with "an architect," replacing the word "taken" with "made," adding the words "federal," "and adversely," and "health and," and replacing the word "municipal" with "local." Proposed LAC 46:I.1901.C.5.i, ii, and iii are clarifications of existing LAC 46:I.1901.C.4.i, ii, and iii, changing reporting "the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations" to reporting "the decision to the official charged with enforcement of building laws and regulations," replacing the word "his" with "the architect's," and replacing "terminate his services" with "terminate the provision of services." Proposed LAC 46:I.1901.C.5.b is existing LAC 46:I.1901.C.4.b. Proposed 46:I.1901.C.6 is a clarification of existing LAC 46:I.1901.C.5, changing the provision that an architect shall not "deliberately make a materially false statement or fail deliberately to disclose a material fact requested" to a provision that an architect shall not "make a false statement or fail to disclose a material fact requested by the board," replacing the words "his or her" with "the architect's," and changing the words "registration" to "licensure." Proposed 46:I.1901.C.7 is a clarification of existing LAC 46:I.1901.C.6 which currently provides that an architect shall not assist the application for registration of a person known by an architect to be unqualified; the proposed Rule clarifies that an architect "shall not knowingly sign any verification document related to licensure that contains false or misleading information and shall not assist in the application for licensure of a person known by the architect to be unqualified." Proposed LAC 46:I.1901.C.8 is new. Proposed LAC 46:I.1901.C.9 clarifies the requirement contained in existing LAC 46:I.1901.C.7 that an architect "possessing knowledge of a violation of these rules by another architect shall report such knowledge to the board." All existing commentaries to existing LAC 46:I.1901.C are deleted.

The proposed Rule changes to LAC 46:I.1901.D are primarily clarifications to the existing rules concerning compliance with laws. The proposed rules replace in existing LAC 46:I.1901.D.1 the provision that an architect shall not "in the conduct of his or her architectural practice knowingly violate any state or feral criminal law" with the provision that an architect shall not violate "the law of the United States or any U.S. jurisdiction that in any way relates to the conduct of the architect's practice." Proposed LAC 46:I.1901.D.2 is new. Proposed LAC 46:I.1901.D.3 clarifies existing LAC 46:I.1901.D.3 by replacing the word "registration" with "licensing," replacing the words "his/her" with "the architect's," replacing "United States" with "U.S.," and adding a second sentence. Existing LAC 46:I.1901.D.2 is moved to proposed LAC 46:I.1901.D.4. Proposed LAC 46:I.1901.D.5 concerns certain conduct of an employer engaged in the practice of architecture, and it is new. All commentaries to existing LAC 46:I.1901.D are deleted.

Proposed LAC 46:I.1901.E concerns an architect sealing documents, and it is new. Proposed LAC 46:I.1901.E.1 sets forth the general Rule concerning an architect sealing technical submissions, and E.2 sets forth exceptions to the general Rule. Proposed LAC 46:I.1901.E.3 sets forth rules related to the sealing of prototypical building documents. Existing LAC 46:I.1901.E, which concerns the conduct of any branch office of a firm rendering architectural services, is deleted. The existing commentary to existing LAC 46:I.1901.E is deleted, and no commentaries to proposed LAC 46:I.1901.E are being proposed.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 19. Rules of Conduct: Violations

§1901. Rules of Conduct

A. Competence

1. In practicing architecture, an architect's primary duty is to protect the public's health, safety, and welfare. In discharging this duty, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill ordinarily applied by architects in good standing, practicing in the same locality.

> COMMENTARY This rule is based on the common law "standard of care" that has been accepted by courts in this country for over 100 years in judging the performance of architects.

2. In designing a project, an architect shall take into account the applicable federal, state, and local building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such laws and regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of such laws and regulations.

3. An architect shall perform professional services only when the architect, together with those whom the architect may engage has the necessary knowledge and skill in the specific technical areas involved.

> COMMENTARY While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations of his or her own capacity and knowledge. Where an architect lacks experience, the rule supposes that he or she will retain consultants who can appropriately supplement his or her own capacity. If an architect undertakes to do a project where he or she lacks knowledge and where he or she does not seek such supplementing consultants, the architect has violated the rule.

4. An architect shall not be permitted to practice architecture if, in the board's judgment, the architect's professional competence is substantially impaired. The assessment of impairment should be performed by an appropriately qualified professional.

> COMMENTARY This rule empowers the board to act preemptively in the interest of public health, safety, and

welfare when the board becomes concerned that an architect's competence may be impaired, rather than waiting until the impaired competence causes harm.

B. Conflict of Interest

1. An architect shall not accept compensation in connection with services from more than one party on a project unless the circumstances are fully disclosed and waived in writing by all parties.

COMMENTARY This rule recognizes that in some circumstances an architect may receive compensation from more than one party involved in a project but that such bifurcated loyalty is unacceptable unless all parties have understood it and accepted it.

2. An architect shall not solicit or accept compensation from material or equipment suppliers for specifying or endorsing their products in connection with a project. As used herein, "compensation" shall mean customary and reasonable business hospitality, entertainment, or product education.

COMMENTARY Unlike Rule B.1, this rule does not provide for waiver by agreement. Customary and reasonable business hospitality, entertainment, and product education may be determined by jurisdictional ethics laws, company policies, and tax guidelines. In Louisiana, a Code of Governmental Ethics is found at La. R.S. 42:1101 et seq.

3. An architect shall not perform professional services in the face of a conflict of interest that is not fully disclosed and waived in writing by all parties. An architect has a conflict of interest when:

a. the architect has or may acquire a financial or other interest in the project, someone participating in it, or any component of it; or

b. the architect's judgment may be adversely affected by a relationship with another party.

4. An architect, when acting by agreement of the parties as the independent interpreter of building contract documents or as the judge of contract performance, shall render decisions impartially.

COMMENTARY This rule governs the construction industry relationship where the architect is to act impartially as the interpreter of building contract documents and/or the judge of contract performance, even though paid by the owner. The rule recognizes that these roles are not inevitable and that there may be circumstances (for example, where the architect has an interest in the owning entity) in which the architect may appropriately decline to act in either of these two roles.

5. An architect serving as an AXP Supervisor for a candidate for licensure shall not have, nor enter into, any relationship with the candidate that would interfere with the objectivity of the AXP Supervisor's certification of the candidate's experience.

COMMENTARY AXP Supervisors should balance their duty to protect the public with their role in licensure candidate development. Balancing these duties make the AXP Supervisors' objectivity critical.

C. Full Disclosure

1. An architect shall not make statements that are misleading, deceptive, or false.

2. An architect making public statements on architectural matters shall disclose if the architect is being compensated for making such statements or has an economic interest in the issue.

3. An architect shall not misrepresent the architect's qualifications, capabilities, and experience or that of the architect's firm.

4. An architect shall not misrepresent or overstate the scope of the architect's responsibility in connection with work for which the architect or the architect's firm is claiming credit.

COMMENTARY Brochures or other presentations incidental to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications or his/her work.

5.a. If, in the course of an architect's work on a project, the architect becomes aware of a decision made by the architect's employer or client, against the architect's advice, which violates applicable federal, state, or local building laws and regulations and which will, in the architect's judgment, materially and adversely affect adversely the health and safety of the public, the architect shall:

i. refuse to consent to the decision, and

ii. report the decision to the official charged with enforcement of building laws and regulations,

iii. in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding the architect's objection, terminate the provision of services with reference to the project unless the architect is able to cause the matter to be resolved by other means.

b. In the case of a termination in accordance with §1901.C.5.a.iii, the architect shall have no liability to his or her client or employer on account of such termination.

COMMENTARY In the circumstances described, the architect is compelled to report the matter to the appropriate building official even though to do so may adversely affect the client's interests. The rule specifically intends to exclude matters of safety during the course of construction that are the obligation of the contractor.

6. An architect shall not make a false statement or fail to disclose accurately and completely a material fact lawfully requested by the board in connection with the architect's application for licensure or renewal.

7. An architect shall not knowingly sign any verification document related to licensure that contains false or misleading information and shall not assist in the application for licensure of a person known by the architect to be unqualified.

8. An architect possessing knowledge of a licensure candidate's qualifications for licensure shall cooperate with the candidate, the board, and/or NCARB by responding appropriately and in a timely manner regarding those qualifications.

9. An architect possessing knowledge of a violation of the jurisdiction's laws or rules governing the practice of architecture by another shall report such knowledge to the board. It is the professional duty of the architect to do so.

D. Compliance with Laws

1. An architect shall not violate the law of the United States or any U.S. jurisdiction that in any material way relates to the conduct of the architect's practice.

2. An architect shall not engage in conduct involving fraud or deliberate disregard of the rights of others.

3. An architect shall comply with the licensing laws and regulations governing the architect's professional practice in any U.S. jurisdiction. An architect may be

subject to disciplinary action if the architect is disciplined in any other U.S. jurisdiction.

4. An architect shall neither offer nor make any payment or gift with the intent of influencing an official's judgment in connection with a prospective or existing project in which the architect is interested.

5. An employer engaged in the practice of architecture found by a court or administrative tribunal to have violated the law of the United States or any U.S. jurisdiction protecting the rights of persons working for the employer, such as those pertaining to harassment, discrimination, and unfair competition, shall be subject to discipline.

E. Sealing Documents

1. An architect shall seal only those technical submissions that were prepared under the architect's responsible control except as noted in Rules E.2 and E.3 below.

2. An architect of record may seal technical submissions not required by law to be prepared by an architect including information supplied by manufacturers, suppliers, installers, or contractors, when that information is intended to be incorporated into the architect of record's technical submissions and the architect of record has reviewed such information and can reasonably trust its accuracy.

3. An architect of record may seal prototypical building documents prepared by an architect licensed in any U.S. jurisdiction, but only if the architect of record determines that such documents are in compliance with the requirements of the project's jurisdiction and incorporates them into the architect of record's own technical submissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:572 (April 2003), amended LR 31:3159 (December 2005), LR 45:

Family Impact Statement

In accordance with sections 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the proposed Rules:

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

The proposed Rule should not have any foreseeable impact on any child, individual, or family as defined by R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;

2. early childhood development and preschool through postsecondary education development;

3. employment and workforce development;

4. taxes and tax credits; or

5. child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined in HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 provider 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 Katherine E. Hillegas by mail or by hand-delivery to 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. Public comments must be dated and include the original signature of the person submitting the comment. All comments must be received by the close of business on December 10, 2018.

Katherine E. Hillegas
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Rules of Conduct

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units as a result of the proposed rule change.

The proposed rule changes codify current practices and clarify existing rules of conduct to ensure they remain relevant to contemporary architectural practice. Additionally, the proposed rule establishes guidelines regarding the relationship of an architect serving as an Architectural Experience Program (AXP) supervisor for a candidate for licensure.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be an increase in revenues to the extent fines are assessed and collected, however the impact is expected to be nominal. Existing rule provides for disciplinary actions, which includes the levying of fines when rules of conduct are violated. The proposed rule change regarding the relationship of an architect serving as an AXP supervisor for a candidate for licensure will be subject to existing disciplinary actions if violated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated impact to costs or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment as a result of the proposed rule change.

Katherine E. Hillegas	Evan Brasseaux
Executive Director	Staff Director
1811#027	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Office of Financial Institutions

Interested Party Petitions (LAC 10:XVII.503)

Under the authority of and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., specifically R.S. 49:953(C)(1) and R.S. 49:952(2), along with the commissioner's rulemaking authority, including but not limited to, R.S. 6:101, R.S. 36:4.1(C)(1), and R.S. 36:801.1(B), the commissioner of the Office of Financial Institutions hereby gives notice of intent to adopt the following Rule to provide for an interested person to petition the agency for the adoption, amendment, or repeal of a rule.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC
Part XVII. Miscellaneous Provisions
Chapter 5. Procedures
§503. Interested Party Petitions

A. Any interested person may petition the Office of Financial Institutions requesting the adoption, amendment, or repeal of a rule.

B. A petition for adoption, amendment or repeal of a rule shall be plainly and prominently titled and styled as such and shall be manually signed by an individual petitioner, and by any attorney representing the petitioner. The full name, title or office if any, address, telephone number and email address of all signees of the petition shall be printed or typed under the signature. Signees signing in a representative capacity must be clearly identified.

C. A petition filed in accordance with this Section shall contain the following:

1. the name and number of any license or other certification issued by the commissioner to the petitioner and a statement regarding whether the petitioner is subject to the regulatory jurisdiction of the commissioner and if the petitioner is or may be affected by the laws included within the scope of the commissioner's jurisdiction;

2. in the case of a petition for the adoption of a new rule, set forth a concise statement of the nature, purpose, and intended effect of the rule which petitioner requests be adopted, and the citation to the statutory authority for the commissioner's exercise of or rulemaking authority in the manner and on the subject requested;

3. in the case of a petition for amendment of an existing rule, specify by citation to the *Louisiana Administrative Code* the rule or rules which the petitioner requests be amended, together with a concise statement of the manner in which it is proposed that the rule or rules be amended, the purpose and intended effect of the requested amendment, and citation to the statutory authority for the commissioner's exercise of or rulemaking authority in the manner and on the subject requested;

4. in the case of a petition for repeal of an existing rule, specify by citation to the *Louisiana Administrative Code* the rule or rules which the petitioner requests be repealed, together with a concise statement of the purpose and intended effect of such repeal;

5. provide an estimate of the fiscal and economic impact of the requested adoption, amendment, or repeal of the rule on the revenues and expenses of the Office of Financial Institutions and any other state and local governmental units, on the costs/benefits to directly affected persons, and on the competition and employment in the public and private sectors. If the petitioner has insufficient information or is otherwise unable to provide a reasonable estimate of such impact, the petitioner shall include a statement attesting to the lack of such information;

6. an estimate of any impact on family formation, stability, and autonomy as described in R.S. 49:972;

7. an estimate of any impact on poverty as described in R.S. 49:973;

8. an estimate of any impact on small business as described in R.S. 49:965.5;

9. an estimate of any impact on providers as described in HCR 170 of 2014;

10. all pertinent allegations of facts, circumstances, and reasons supporting the action sought by the petitioner;

11. a statement or prayer expressing the action sought by the petition;

12. any other information deemed necessary by the commissioner, in his discretion, in order that he may properly consider the petition.

D. The commissioner may refuse to accept for filing or defer consideration of any petition for adoption, amendment, or repeal, of a rule, which does not conform to the requirements of this section.

E. After submission of a petition pursuant to this section, the Office of Financial Institutions shall either deny the petition in writing stating the reasons for denial, or shall initiate rulemaking proceedings in accordance with the Louisiana Administrative Procedure Act.

F. Nothing herein shall be construed to require that the commissioner, in granting a petition for the adoption, amendment, or repeal of a rule, adopt or employ the specific form or language requested by the petitioner, provided that the commissioner's action gives effect to the substance and intent of the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2) 49:953(C)(1), R.S. 6:101, R.S. 36:4.1(C)(1), and R.S. 36:801.1(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions LR 45:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Economic Impact Statement

This Rule has no known impact on small business as described in R.S. 49:965.5.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Comments

All interested persons are invited to submit written comments regarding this proposed rule no later than 5 p.m., December 10, 2018, to Susan R. Rouprich, General Counsel, to 8660 United Plaza, Second Floor, Baton Rouge, LA 70809.

John Ducrest, CPA
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Interested Party Petitions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no implementation costs or savings to the state of Louisiana or any local governmental unit. The proposed rule change codifies the procedures for an interested person to petition the Office of Financial Institutions to request the adoption, amendment or repeal of a rule. This action is in accordance with the provisions of Act 454 of the 2018 Regular Session.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to create costs or economic benefits for directly affected persons or non-governmental entity. The right to petition with regard to rule changes existed prior to Act 454 of 2018. The proposed rule change codifies the mechanisms.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to affect competition and employment.

John Ducrest, CPA	Evan Brasseaux
Commissioner	Staff Director
1811#016	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Real Estate Appraisers Board

Licensure; Education
(LAC 46:LXVII.Chapters 103 and 104)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3397 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers Board has initiated procedures to amend Chapters 103 (License Requirements) and 104 (Education Providers/Course Approval).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 2. Appraisers

Chapter 103. License Requirements

§10303. Examination

A. Any applicant who fails an examination may apply to retake the examination by submitting a copy of the fail notice and a new examination processing fee to the board within 90 days of failed test date. After one year, the applicant shall be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1332 (June 2005), LR 37:332 (January 2011), LR 41:368 (February 2015), LR 45:

§10305. Fees

A. ...

B. The application fee for a license shall cover a period of no more than two calendar years and shall not be prorated.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), LR 45:

§10308. Appraiser Trainees

A. A certified residential or certified general real property appraiser may engage a licensed appraiser trainee to assist in the performance of real estate appraisals, provided the following criteria are met:

1. The certified residential or certified general real property appraiser shall supervise no more than a total of three trainees at any one time, either as employees or subcontractors, in all states.

2. The certified residential or certified general real property appraiser shall be responsible for the conduct of the licensed appraiser trainees and shall supervise their work product, in accordance the guidelines and requirements of the "2018-2019 Uniform Standards of Professional Appraisal Practice" or its successor.

3. The supervising certified residential or certified general real property appraiser shall accompany the licensed appraiser trainee on inspections of the subject property until the certified residential or certified general real property appraiser feels the appraiser trainee is competent to do so based on the type of property and assignment.

4. ...

5. The supervising certified residential or certified general real property appraiser shall immediately notify the board and the licensed appraiser trainee in writing when the certified residential or certified general real property appraiser terminates the supervision of the licensed appraiser

trainee. The trainee must suspend practice unless he/she has more than one supervisor or must get supervision from another supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), amended LR 37:333 (January 2011), LR 41:368 (February 2015), LR 42:870 (June 2016), LR 45:

§10309. Application for Experience Credit

A. …

B. Experience credit shall be approved by the board in accordance with *The Real Property Appraiser Qualification Criteria*, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB) or its successor. Calculation of experience hours shall be based solely on actual hours of experience.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), LR 37:333 (January 2011), LR 39:310 (February 2013), LR 41:368 (February 2015), LR 42:871 (June 2016), LR 45:

§10311. Residential Experience Requirements

A. A minimum of 1500 hours of appraisal experience in no fewer than 12 months is required.

A.1. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005), LR 37:333 (January 2011), LR 41:369 (February 2015), LR 45:

§10313. General Experience Requirements

A. Three thousand hours of appraisal experience in no fewer than 18 months is required, where a minimum of 1500 hours must be obtained in non-residential appraisal work.

A.1. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005), LR 37:333 (January 2011), LR 41:369 (February 2015), LR 42:871 (June 2016), LR 45:

Chapter 104. Education Providers/Course Approval

§10401. Approval of Education Providers

A. - C. ...

D. Education providers shall:

1. submit monthly schedules and attendance reports to the board as required;

2. ensure that course offerings satisfy all requirements mandated by the board and *The Real Property Appraiser Qualification Criteria*, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB), or its successor.

D.3. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), LR 45:

§10403. Approval of Qualifying/Continuing Education Courses

A. - B. ...

C. All approved courses will be valid through December 31 following the initial approval date. The board may extend such approval for the next renewal period if course materials remain current or are updated as changes in the law or rules require. Courses approved through the Appraiser Qualifications Board (AQB) of the Appraisal Foundation/International Distance Education Certification Center (IDECC) will be valid through the AQB/IDECC issued expiration date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), LR 37:334 (January 2011), LR 45:

§10405. Course Requirements

A. The board shall require approved providers to follow model curriculum guidelines in accordance with *The Real Property Appraiser Qualification Criteria*, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB) to assure comprehensive coverage of appraisal topics which meet the educational requirements for trainee, certified residential, and certified general real property appraiser licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), LR 45:

§10407. Qualifying Education

A. The board shall require approved providers to follow model curriculum guidelines in accordance with *The Real Property Appraiser Qualification Criteria*, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB), or its successor, to assure comprehensive coverage of appraisal topics which meet the qualifying educational requirements for trainee, certified residential, and certified general real property appraiser licenses.

B. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), LR 37:334 (January 2011), LR 45:

§10409. Continuing Education

A. The board shall require approved providers to follow model curriculum guidelines in accordance with *The Real*

Property Appraiser Qualification Criteria, May 2018, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB), or its successor, to assure comprehensive coverage of appraisal topics which meet the continuing educational requirements for trainee, certified residential, and certified general real property appraiser licenses.

B. Education that is not obtained through a board-certified continuing education provider shall be submitted to the board prior to renewal for review and approval towards the annual continuing education requirement.

C. Course work completed by licensees through non-approved providers will be considered for credit by the board on an individual basis.

D. Licensees seeking approval for course work obtained through non-approved providers must apply directly to the board for credit toward the license renewal requirement. Each submission shall include a cover letter that contains the licensee's complete name, mailing address, and telephone number, with the following documentation:

1. certificate of completions;
2. hours completed;
3. date of completion;
4. detailed course content information;
5. verification of successful completion of an examination on course content, if applicable.

E. - H. ...Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1430 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1337 (June 2005), LR 37:335 (January 2011).

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 November 20, 2018 *Louisiana Register*: The proposed Rule has no known impact on family, formation, stability, or autonomy.

Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

Interested parties may submit written comments on the proposed regulations to Ryan Shaw, Louisiana Real Estate Appraisers Board, 9071 Interline Avenue, Baton Rouge, LA 70809 or rshaw@lrec.gov, through December 10, 2018 at 4:30 p.m.

Public Hearing

If it becomes a necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedures Act, a hearing will be held on December 27, 2018 at 9 a.m. at the office of the Louisiana Real Estate Appraisers Board, 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure; Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units as a result of the proposed rule change.

The purpose of the proposed rule is to codify current practices in rule and update the Louisiana Real Estate Appraisers Board rules to reflect current federal laws dictated by the Appraisal Subcommittee – Appraiser Qualifications Board (AQB). Additionally, the work experience requirements to become a residential appraiser are changing from 2,500 hours in no fewer than 24 months to 1,500 hours in no fewer than 12 months, and the work experience requirements to become a general appraiser are changing from 3,000 hours in no fewer than 30 months to 3,000 hours in no fewer than 18 months, with 1,500 hours being obtained in non-residential work.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact to revenue collections to 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)

Current and future residential and general appraiser trainees will be impacted by the proposed rule change. Residential trainees will have the ability to complete fewer work experience hours in a reduced time frame and general trainees will have the ability to complete the currently required work experience hours in a reduced time frame with half of the required hours being obtained in non-residential work. Additionally, residential and general supervisory appraisers may be impacted due to the reduced length of time it may take for the trainees to become licensed, however this impact will vary dependent upon the supervisory appraiser and the compensation plan in place.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change lowers current Louisiana qualification requirements to match those established by the AQB, and may lead to an increase in the number of certified appraisers, which may increase competition.

Bruce Unangst	Evan Brasseaux
Executive Director	Staff Director
1811#025	Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health
Board of Nursing

Disciplinary Proceedings (LAC 46:XLVII.3405)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) is proposing rule changes that will add clarifying language to the definitions "revoke" and "suspend" in Chapter 34, Section 3405 of the administrative rules. This change may affect the licensure of

Registered Nurses (RNs) and Advanced Practice Registered Nurses (APRNs). Amendments to the definition of "revoke" include language allowing for the reinstatement of a revoked license five years after revocation of a license. The revised definition aligns with recent changes in Chapter 34, §3415 of the administrative rules, which modifies the reinstatement of licenses process for RNs and APRNs. The changes in Chapter 34, §3415 allow for the RN and/or the APRN to submit an application for the consideration of reinstatement by the board if his/her license has been revoked. The rule changes to Chapter 34, §3415 were published in October 2018.

Additionally, the proposed rule changes amend the definition of "suspend" regarding the licensure of RNs and APRNs, implementing a maximum cap on license suspensions of three years. Under the prior definition the LSBN could suspend licenses indefinitely. The revised definition further clarifies the powers of an RN or APRN under license suspension.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered Nurses
Subpart 1. Practical Nurses
Chapter 34. Disciplinary Proceedings: Alternative to Disciplinary Proceedings.
§3405 Definition of Terms

A. ...

* * *

Revoke—to annul or make void by calling back. A person who is licensed as a registered nurse, an advanced practice registered nurse, or both, and whose license or licenses are revoked, but not declared "permanently revoked," loses his/her license(s) to practice registered nursing, advanced practice registered nursing or both is no longer a registered nurses, advanced practice registered nurse, or both, but may apply for reinstatement for five years from the date the board's revocation order became a final judgement. A person whose license or licenses are revoked permanently or are declared permanently revoked, however, never again shall be allowed to practice registered nursing in Louisiana, and an application for reinstatement shall not be considered.

* * *

Suspend—to hold license to practice as a registered nurse, an advanced practice register nurse, or both, in abeyance for a definite period of time. A suspension shall not exceed a maximum term or time period of three years. A suspended registered nurse or advanced practice registered nurse remains a registered nurse, an advanced practice registered nurse, or both, during the period of suspension and retains a license to practice. But cannot practice, and shall not practice, registered nursing, advanced practice registered nursing, or both, during the term of suspension.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), R.S. 37:921, and R.S. 37:1744-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), LR 21:271 (March1995), LR 24:1293 (July 1998), LR 31:1585 (July 2005), LR 35:1535 (August 2009), LR 36:2278 (October 2010), amended by the Department of Health, Board of Nursing, LR 43:1379 (July 2017), LR 45:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49.972(D) or on family formation, stability and autonomy. Specifically, there should be 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. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on 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 not have an 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 on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before December 10, 2018.

Dr. Karen C. Lyon
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Disciplinary Proceedings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time publication cost of $300 in FY 19 for the LA State Board of Nursing (LSBN) to publish the rule changes in the Louisiana Register. The proposed rule change will not result in any savings to state or local governmental units.

The LSBN is adding clarifying language to the definition of "revoke" regarding the licensure of Registered Nurses (RNs) and Advanced Practice Registered Nurses (APRNs) in Chapter 34, Section 3405 of the administrative rules. Amendments to the definition of "revoke" include language allowing for the reinstatement of a revoked license 5 years after revocation of a license. The revised definition aligns with recent changes in Chapter 34, Section 3415 of the administrative rules, which

modifies the reinstatement of licenses process for RNs and APRNs. The changes in Chapter 34, Section 3415 allow for the RN and/or the APRN to submit an application for the consideration of reinstatement by the board if his/ her license has been revoked. The rule changes to Chapter 34, Section 3415 were published in October 2018.

Additionally, the proposed rule changes amend the definition of "suspend" regarding the licensure of RNs and APRNs, implementing a maximum cap on license suspensions of 3 years. Under the prior definition the LSBN could suspend licenses indefinitely. The revised definition further clarifies the powers of an RN or APRN under license suspension.

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)

There may be economic benefits to RNs and/or APRNs whose licenses are suspended, as they may only be suspended for up to 3 years under proposed rule changes, rather than indefinitely. If RNs or APRNs have their licenses suspended subsequent to this rule change, they will have the potential economic benefit of their license reinstatement sooner with the ability to practice as an RN or APRN. The average annual salary for RNs is $63,560 and the average annual salary for APRNs is $107,480.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to affect comeptition or employment.

Karen C. Lyon CEO/Executive Director 1811#026	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Managed Care Organization Payment Accountability
and Provider Credentialing
(LAC 50.I.1505)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.1505 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:460.73.A and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 489 of the 2018 Regular Session of the Louisiana Legislature directed the Department of Health to establish provisions which: 1) require managed care organizations (MCOs) participating in the Medical Assistance Program to ensure that providers contracted or enrolled with the MCO comply with all Medicaid provider enrollment, credentialing and accreditation requirements; and 2) establish a process and timeline for affected providers to request departmental review of MCO-identified credentialing deficiencies.

In compliance with the requirements of Act 489, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing MCO payment accountability and provider credentialing.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 1. General Provisions
Chapter 15. Provider Screening and Enrollment
§1505. Managed Care Organization Payment Accountability and Provider Credentialing

A. In compliance with the requirements of Act 489 of the 2018 Regular Session of the Louisiana Legislature, the Department of Health adopts the following payment accountability and provider credentialing requirements for managed care organizations (MCOs) participating in the Medical Assistance Program:

1. Managed care organizations shall ensure that contracted or enrolled providers have met and continue to meet Medicaid provider enrollment, credentialing and accreditation requirements and other applicable state or federal requirements in order to receive reimbursement for services provided to Medicaid recipients.

2. Managed care organizations that fail to ensure proper compliance with Medicaid provider enrollment, credentialing or accreditation requirements shall be liable for reimbursement to providers for services rendered to Medicaid recipients, until such time as the deficiency is identified by the MCO and notice is issued to the provider pursuant to R.S. 46:460.72.

3. Managed care organizations shall withhold reimbursement for services provided during the 15 day remedy period after notice of the deficiency is identified by the MCO, or during a longer period if allowed by LDH, if the provider elects to continue rendering services while the deficiency is under review.

a. If the deficiency is remedied, the MCO shall remit payment to the provider.

b. If the deficiency is not remedied, nothing in this Section shall be construed to preclude the MCO from recouping funds from the provider for any period in which the provider was not properly enrolled, credentialed or accredited.

c. If the deficiency cannot be remedied within 15 days, the provider may seek review by the department if he/she believes the deficiency was caused by good faith reliance on misinformation by the MCO and asserts that he/she acted without fault or fraudulent intent, there is no deficiency, or because of reliance on misinformation from the MCO, an exception should be made to allow reasonable time to come into compliance so as to not disrupt patient care.

i. After the initial notification of deficiency, the provider shall notify the department of his/her intent to appeal the decision within 10 calendar days of receipt of the MCO's notification, and provide a detailed request for departmental review with supporting documents within 15 calendar days of receipt of the MCO's notification.

(a). The provider shall prove absence of fault or fraudulent intent by producing guidance, applications or other written communication from the MCO that bears incorrect information, including whether the misinformation or guidance was contradictory to applicable Medicaid manuals, rules, or policies.

ii. The department shall review all materials and information submitted by the provider and shall review any information necessary that is in the custody of the MCO to

render a written decision within 30 days of the date of receipt for review submitted by the provider.

(a). If the department's decision is in favor of the provider, a written decision shall be sent to the provider and the MCO via certified mail and the provider shall be afforded reasonable time to remedy the deficiency caused by the misinformation of the MCO. During this time, the provider shall be allowed to provide services and submit claims for reimbursement.

(i). The MCO shall be responsible for payment to the provider and may be subject to penalties by the department in accordance with contract provisions, or rules and regulations promulgated pursuant to the Administrative Procedure Act.

(b). If the department's decision is in favor of the MCO, the provider's contract shall be terminated immediately, pursuant to the notice provided for in R.S. 46:460.72(C).

(c). If the department's decision is that the provider acted with fault or fraudulent intent, the provisions of R.S. 46:460.73(B) shall apply.

(d). The written decision by the department is the final administrative decision and no appeal or judicial review shall lie from this final administrative decision.

AUTHORITY NOTE: 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 44:920 (May 2018), LR 45:

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 the submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

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, but may increase direct or indirect cost to the provider to provide the same level of service if credentialing deficiencies results in termination of provider enrollment. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the termination in payments adversely impacts the provider's financial standing.

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, December 27, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Managed Care Organization Payment Accountability and Provider Credentialing

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 18-19. It is anticipated that $756 ($378 SGF and $378 FED) will be expended in FY 18-19 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 18-19. It is anticipated that $378 will be collected in FY 18-19 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, in compliance with the requirements of Act 489 of the 2018 Regular Session of the Louisiana Legislature, amends the provisions governing the screening and enrollment of Medicaid providers in order to establish provisions which 1) require managed care organizations (MCOs) participating in the Medical Assistance Program to ensure that providers contracted or enrolled with the MCO comply with all Medicaid provider enrollment, credentialing and accreditation requirements; and 2) establish a process and timeline for affected providers to request departmental review of MCO-identified credentialing deficiencies. This proposed Rule may result in economic costs to providers if credentialing deficiencies result in termination of provider enrollment. It is anticipated that implementation of this proposed rule will have no programmatic costs or benefits to the Medicaid Program in FY 18-19, FY 19-20 and FY 20-21 since the MCOs are already responsible for provider credentialing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele Medicaid Director 1811#062	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

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

Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver
(LAC 50:XXII.Chapters 61-69)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to adopt LAC 50:XXII.Chapters 61-69 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) approved a request by the Department of Health to implement the Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver, a five-year 1115(a) demonstration waiver to permit managed care organizations (MCOs) to provide opioid use disorder/substance use disorder services to Medicaid recipients in an institution for mental disease (IMD) without regard to the monthly MCO length of stay limit for these residential treatment services in an IMD setting. The Department of Health, Bureau of Health Service Financing and the Office of Behavioral Health propose to adopt provisions governing the CMS-approved Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXII. 1115 Demonstration Waivers
Subpart 7. Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver

Chapter 61. General Provisions

§6101. Purpose

A. The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health hereby implement a section 1115(a) demonstration waiver called the Healthy Louisiana Opioid Use Disorder/Substance Use Disorder (OUD/SUD) Waiver which is designed to maintain critical access to OUD/SUD services and continue delivery system improvements for these services to provide more coordinated and comprehensive OUD/SUD treatment for Medicaid recipients. This demonstration waiver provides the state with the authority to provide high-quality, clinically appropriate OUD/SUD treatment services for residents in residential and inpatient treatment settings that qualify as an institution for mental disease (IMD).

B. The Healthy Louisiana OUD/SUD Waiver is a 59-month demonstration project which was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) effective February 1, 2018 and will span five years, through December 31, 2022. Louisiana may request an extension of this demonstration project through CMS prior to the expiration date.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

Chapter 63. Eligibility

§6301. General Provisions

A. The Healthy Louisiana OUD/SUD Waiver services shall be available to individuals who:

1. meet the eligibility criteria for Medicaid set forth in the State Plan;
2. meet clinical criteria, including having a SUD diagnosis; and
3. receive OUD/SUD treatment services in residential and inpatient treatment settings that qualify as an IMD, which are not otherwise matchable expenditures under §1903 of the Social Security Act.

B. Retroactive coverage is not available in the Healthy Louisiana OUD/SUD Waiver program.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

Chapter 65. Services

§6501. Covered Services

A. The coverage of OUD/SUD residential treatment and withdrawal management services during residential stays under the scope of this demonstration project are:

1. inpatient services provided to recipients in IMDs;
2. residential treatment provided to recipients in IMDs;
3. clinically managed withdrawal management provided to recipients in IMDs;
4. medically monitored/managed withdrawal management provided to recipients in IMDs; and
5. medication-assisted treatment (MAT) provided to recipients in IMDs.

B. A licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law shall determine the medical necessity of all OUD/SUD services furnished under this waiver.

1. For the purposes of this Chapter, the term medically necessary means that the services provided under this waiver are reasonably calculated by an LMHP or a physician:
   a. to reduce the disability resulting from the illness; and
   b. to restore the recipient to his/her best possible functioning level in the community.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

§6503. Service Delivery

A. All Healthy Louisiana OUD/SUD Waiver services are to be provided to recipient groups through a managed care delivery system, except for the following:

1. spend-down medically needy population.

B. All of the covered services under this waiver shall be delivered by an IMD provider contracted with one or more of the managed care organizations (MCOs) operating within the state's Medicaid system.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

Chapter 67. Provider Participation

§6701. General Provisions

A. All providers participating in the delivery of services covered under the Healthy Louisiana OUD/SUD Waiver shall adhere to all of the applicable federal and state regulations, policies, rules, manuals and laws.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

§6703. Reporting Requirements

A. MCOs and their contracted providers of OUD/SUD services under this demonstration project shall be required to provide data as outlined or requested by the Department of Health.

B. Data shall be provided in the format and frequency specified by the department including any additional data requests as identified by the department.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

Chapter 69. Reimbursement

§6901. General Provisions

A. MCOs and their contracted IMD providers shall ensure that reimbursement for services covered under the Healthy Louisiana OUD/SUD Waiver is requested and paid only for those recipients who meet the eligibility criteria and for whom services were rendered:

1. providers/IMDs shall retain any and all supporting financial information and documents that are adequate to ensure that payment is made in accordance with applicable federal and state laws;

2. any such documents shall be retained for a period of at least six years from the date of service, or until the final resolution of all litigation, claims, financial management reviews or audits pertaining, whichever is the longest time period; and

3. there shall not be any restrictions on the right of the state and federal government to conduct inspections and/or audits as deemed necessary to assure quality, appropriateness or timeliness of services and reasonableness of costs.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

§6903. Reimbursement Methodology

A. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs inclusive of coverage for the provision of residential and inpatient substance use services for recipients. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

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 on family functioning, stability and autonomy as described in R.S. 49:972 because it will allow recipients in institutions for mental disease with an opioid use disorder/substance use disorder diagnosis to access critical treatment 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 child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 because it will allow recipients in institutions for mental disease with an opioid use disorder/substance use disorder diagnosis to access critical treatment 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, December 27, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver

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 18-19, FY 19-20, or FY 20-21. However, $428,377 was expended in FY 18 for 1115 demonstration waiver development, consulting, and budget neutrality development by the LDH contracted actuaries in order to obtain federal approval prior to rule promulgation. It is anticipated that $1,080($540 SGF and $540 FED) will be expended in FY 18-19 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 18-19. It is anticipated that $540 will be collected in FY 18-19 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 adopts provisions governing the Healthy Louisiana Opioid Use Disorder/Substance Use Disorder (OUD/SUD) Waiver, a five-year 1115(a) demonstration waiver approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) to permit managed care organizations (MCOs) to provide OUD/SUD services to Medicaid recipients in an institution for mental disease (IMD) without regard to the MCO length of stay limit for residential treatment services in an IMD setting. Recipients in IMDs with OUD/SUD diagnoses will benefit from the implementation of this proposed Rule, since it ensures continued access to critical OUD/SUD treatment services that were already being provided prior to the waiver, without interruption in care. There is no anticipated programmatic impact as a result of this proposed rule since the CMS-approved 1115(a) waiver continues ongoing expenditures previously being reimbursed as a cost effective alternative benefit (or "in lieu of") arrangement with the MCOs, does not add or expand service coverage, and allows the state to continue to draw down the same federal match for these services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to providers for FY 18-19, FY 19-20 and FY 20-21.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1811#060

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Intermediate Care Facilities for Individuals with Intellectual Disabilities—Public Facilities
Transitional Rate Extension
(LAC 50:VII.32915 and 32969)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32915 and §32969 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 amended the provisions governing the reimbursement methodology for public intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to extend the period of transitional rates for large facilities that provide continuous nursing coverage to medically fragile populations for an additional year (*Louisiana Register*, Volume 44, Number 1). The department promulgated an Emergency Rule which amended the provisions governing intermediate care facilities for individuals with intellectual disabilities to extend the period of transitional rates for two additional years, and to amend the provisions governing ICFs/IID to align the Rule language with the language currently used in the Medicaid State Plan amendment approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (*Louisiana Register*, Volume 44, Number 10). This proposed Rule is being promulgated in order to continue the provisions of the October 11, 2018 Emergency Rule.

Title 50
PUBLIC HEALTH─MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Individuals with Intellectual Disabilities
Chapter 329. Reimbursement Methodology
§Subchapter A. Non-State Facilities
§32915. Complex Care Reimbursements

A. Private (non-state) intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) may receive an add-on payment to the per diem rate for providing complex care to Medicaid recipients who require such services. The add-on rate adjustment shall be a flat fee amount and may consist of payment for any one of the following components:

1. - 7. ...

B. Private (non-state) owned ICFs/IID may qualify for an add-on rate for recipients meeting documented major medical or behavioral complex care criteria. This must be documented on the complex support need screening tool provided by the department. All medical documentation indicated by the screening tool form and any additional documentation requested by the department must be provided to qualify for the add-on payment.

C. - I.3.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:276 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44: 1447 (August 2018), LR 45:

Subchapter C. Public Facilities

§32969. Transitional Rates for Public Facilities

A. - B. ...

1. The department may extend the period of transition up to September 30, 2020, if deemed necessary, for an active CEA facility that is:

B.1.a. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:326 (February 2013), amended LR 40:2588 (December 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 44:60 (January 2018), LR 44:772 (April 2018), LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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, December 27, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Intermediate Care Facilities for Individuals with Intellectual Disabilities—Public FacilitiesTransitional Rate Extension

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of approximately $9,949 for FY 18-19 and $13,193 for FY 19-20. It is anticipated that $540 ($270 SGF and $270 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.67 percent in FY 18-19 and 65.79 in FY 19-20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease revenue collections by $18,435 for FY 18-19 and $25,373 for FY 19-20. It is anticipated that $270 will be collected in FY 18-19 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.67 percent in FY 18-19 and 65.79 in FY 19-20.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the October 11, 2018 Emergency Rule which amended the provisions governing the reimbursement methodology for public intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) that are being privatized in order to extend the period of transitional rates for a large facility that provides continuous nursing coverage to medically fragile populations for two additional years (one facility impacted). The Emergency Rule also revised the rule language to make technical changes to align with the language currently used in the Medicaid State Plan amendment approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. There is one ICF/IID which may be impacted by the implementation of this proposed rule due to the extension of transitional rates. It is anticipated that implementation of this proposed rule will decrease Medicaid programmatic expenditures for ICFs/IID services by approximately $28,924 for FY 18-19 and $38,566 for FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele Medicaid Director 1811#061	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Nursing Facilities—Licensing Standards
Virtual Visitation (LAC 48:I.9781)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.9781 as authorized by R.S. 36:254 and 40:1193.1-1193.11. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 596 of the 2018 Regular Session of the Louisiana Legislature, hereafter referred to as the Nursing Home Virtual Visitation Act, enacted R.S. 40:1193.1-1193.11 which directed the Department of Health to establish provisions governing nursing facility virtual visitation in order to provide for consent, by a nursing facility resident or a legal representative, relative to the authorization for installation and use of a monitoring device in the room of the resident.

In compliance with the requirements of Act 596, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the licensing of nursing facilities in order to adopt provisions governing virtual visitation (*Louisiana Register*, Volume 44, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2018 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 97. Nursing Facilities
Subchapter C. Resident Rights
§9781. Virtual Visitation

A. Each nursing facility licensed by the Department of Health shall comply with the provisions of the Nursing Home Virtual Visitation Act of 2018 enacted by the Louisiana Legislature, or such amendments enacted thereafter.

B. The term *monitoring device,* as used in this Section, shall have the same meaning as defined in the Nursing Home Virtual Visitation Act of 2018.

C. Capacity to Consent to Virtual Visitation

1. A resident's capacity to consent to the authorization for installation and use of a monitoring device is presumed if the resident has not been interdicted and has no current documented medical diagnosis affecting capacity.

2. Any question as to capacity of a non-interdicted resident to consent to the authorization for installation and use of a monitoring device shall be determined by the resident's admitting physician, the resident's personal physician, or the medical director of the nursing facility; such determination shall be documented in the resident's medical record.

3. The nursing facility shall have a policy regarding capacity to consent to the authorization for installation and use of a monitoring device in a resident's room; such policy shall include, at a minimum, the provisions of §9781.C.1 and §9781.C.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:1193.1-1193.11.

HISTORICAL NOTE: Promulgated by the Department of Health Bureau of Health Services Financing, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a negative impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 since nursing facility residents that consent to virtual visitation or their families are responsible for the costs associated with the installation and use of monitoring devices in the residents' rooms.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 27, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities—Licensing Standards Virtual Visitation

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 18-19. Any potential additional workload on the regulatory agency is indeterminable, and anticipated to be absorbed with existing staff. It is anticipated that $432 will be expended in FY 18-19 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 continues the provisions of the November 20, 2018 Emergency Rule which amended the licensing standards for nursing facilities in order to adopt provisions governing virtual visitation to provide for consent, by a nursing facility resident or a legal representative, relative to the authorization for installation and use of a monitoring device in the room of the resident, in compliance with Act 596 of the 2018 Regular Session of the Louisiana Legislature. This proposed Rule may result in economic costs to residents of nursing facilities that consent to virtual visitation since the costs associated with the installation and operation of the monitoring devices are the responsibility of the residents. It is anticipated that the implementation of this proposed rule will have no economic costs or benefits to nursing facilities in FY 18-19, FY 19-20 and FY 20-21 since nursing facilities will not bear the financial responsibility for the installation and operation of monitoring devices in residents' room.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello	Evan Brasseaux
Health Standards Section Director	Staff Director
1811#063	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Nursing Facilities—Reimbursement Methodology
Case-Mix Documentation Reviews and Index Reports
(LAC 50:II.20013)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20013 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant of the 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 proposes to amend the provisions governing the reimbursement methodology for nursing facilities in order to align the case-mix index threshold percentage for nursing facility rate setting with the national threshold percentage.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20013. Case-Mix Documentation Reviews and Case-Mix Index Reports [Formerly LAC 50:VII.1313]

A. - B.4. ...

5. The following corrective action will apply to those nursing facility providers with unsupported MDS resident assessments identified during an on-site CMDR.

a. If the percentage of unsupported assessments in the initial on-site CMDR sample is greater than 20 percent, the sample shall be expanded, and shall include the greater of 20 percent of the remaining resident assessments or 10 assessments.

b. - e. ...

Effective Date (A)	Threshold Percent (B)
January 1, 2003	Educational
January 1, 2004	40%
January 1, 2005	35%
January 1, 2006	25%
February 20, 2019 and beyond	20%

AUTHORITY NOTE: Promulgated in 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 28:2537 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:826 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:528 (March 2017), LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

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 December, 27, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities—Reimbursement Methodology—Case-Mix Documentation Reviews and Index Reports

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in an estimated state general fund programmatic savings of $46,808 for FY 18-19, $182,161 for FY 19-20 and $182,161 for FY 20-21. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.67 percent in FY 18-19 and 65.79 percent in FY 19-20 and FY 20-21.

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 by $85,859 for FY 18-19, $350,319 for FY 19-20 and $350,319 for FY 20-21. It is anticipated that $216 will be expended in FY 18-19 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.67 percent in FY 18-19 and 65.79 percent in FY 19-20 and FY 20-21.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the reimbursement methodology for nursing facilities in order to align the case-mix index threshold percentage for nursing facility rate setting with the national threshold percentage, in compliance with findings by the Louisiana Legislative Auditor resulting from an audit to evaluate the processes used by the Department to ensure the accuracy of Medicaid rates to nursing facilities. Implementation of this proposed rule may result in economic costs to nursing facility providers with documentation errors in resident files that exceed the threshold percentage, but may be beneficial by ensuring that Louisiana's rates are accurate and consistent with those of other states. It is anticipated that implementation of this proposed Rule may decrease Medicaid programmatic expenditures for nursing facilities by $133,099 in FY 18-19, $532,480 in FY 19-20 and $532,480 in FY 20-21.

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
1811#063	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Nursing Facilities—Reimbursement Methodology
Transition of Private Facilities to State-Owned or Operated Facilities Through Change of Ownership
(LAC 50:II.20023 and 20024)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20023 and adopt LAC 50:II.20024 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

In compliance with the directives of Act 933 of the 2010 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing currently provides reimbursement for the transition of a state-owned or operated nursing facility to a private nursing facility.

As a result of a budgetary shortfall in state fiscal year 2018-2019, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities in order to adopt provisions governing the transition of a private nursing facility to a state-owned or operated nursing facility through a change of ownership (*Louisiana Register*, Volume 44, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 5, 2018 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20023. Transition of State-Owned or Operated Nursing Facility to a Private Facility

A. - D.7. ...

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 Services Financing, LR 37:903 (March 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§20024. Transition of Private Nursing Facility to a State-Owned or Operated Nursing Facility through a Change of Ownership

A. Any private nursing facility that undergoes a change of ownership (CHOW) to a state-owned or operated nursing facility will be exempt from the prospective reimbursement system for public nursing facilities during the transitional period.

1. The transitional period will be effective from the date of the CHOW until the July 1 rate setting period following when the state-owned or operated nursing facility has an audited or reviewed 12 month or greater cost reporting period available for use in rate setting.

2. After the transitional period, the nursing facility will be reimbursed pursuant to the requirements of the prospective reimbursement system for public nursing facilities.

B. Effective for dates of service on or after July 5, 2018, the reimbursement amount paid to a public nursing facility during the transitional period shall be as follows:

1. Public nursing facilities transitioning from private ownership shall receive a monthly interim payment based on occupancy, which shall be a per diem rate of $365.68.

2. For each cost reporting period ending during the transitional period a cost settlement process shall be performed. The cost settlement process shall ensure that Medicaid reimbursement for each public nursing facility transitioning from private ownership is equal to 100 percent of the nursing facility's Medicaid allowable cost for the applicable cost reporting period.

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

HISTORICAL NOTE: Promulgated by the Department of Health, 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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that nursing facility provider participation in the Medicaid Program is diminished as a result of the reduction in payments.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that access to nursing facility services is reduced as a result of diminished provider participation due to the reduction in payments.

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, but may increase direct or indirect cost to the provider to provide the same level of service due to the reduction of payments for these services. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

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, December 27, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities—Reimbursement Methodology—Transition of Private Facilities to State-Owned or Operated Facilities through Change of Ownership

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic cost of approximately $438,198 for FY 18-19, $444,010 for FY 19-20 and will be cost neutral for FY 20-21. It is estimated that implementation of this proposed rule will increase expenditures initially, but will result in a net cost avoidance for FYs 18-19 and 19-20 which will be realized in FY 20-21. It is anticipated that $540 ($270 SGF and $270 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.23 percent in FYs 18-19 and 19-20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase revenue collections by $786,630 for FY 18-19 and $797,282 for FY 19-20. It is anticipated that $270 will be collected in FY 18-19 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.23 percent in FYs 18-19 and 19-20.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the July 5, 2018 Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities in order to adopt provisions governing the transition of a private nursing facility to a state-owned or operated nursing facility through a change of ownership. There is 1 nursing facility provider which may be impacted by the implementation of this proposed rule due to the reduced reimbursement rates resulting from the provider's transition from a private nursing facility to a state-owned or operated facility. It is anticipated that implementation of this proposed rule may increase Medicaid programmatic

expenditures for the nursing facility by approximately $1,224,288 for FY 18-19, $1,241,292 for FY 19-20 and $0 for FY 20-21.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it may reduce the reimbursements made to the affected nursing facility. The reduction in payments may adversely impact the financial standing of the nursing facility and could possibly cause a reduction in employment opportunities.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1811#065	Legislative Fiscal Office

NOTICE OF INTENT

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

Behavioral Health Services
Substance Use Disorders Services
(LAC 50:XXXIII.14101, 14301, 14303 and 14501)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.14101, §14301, §14303, and §14501 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) approved a request by the Department of Health to implement the Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver, a five-year 1115(a) demonstration waiver to permit managed care organizations (MCOs) to provide opioid use disorder/substance use disorder services to Medicaid recipients in an institution for mental disease (IMD) without regard to the monthly MCO length of stay limit for these residential treatment services in an IMD setting. The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend the provisions governing substance use disorders services in order to align these provisions with the CMS-approved Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 15. Substance Use Disorders Services
Chapter 141. General Provisions
§14101. Introduction

A. ...

B. The SUD services rendered shall be those services which are medically necessary to reduce the disability resulting from the illness and to restore the individual to his/her best possible level of functioning in the community.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1890 (October 2018), LR 45:

Chapter 143. Services
§14301. General Provisions

A. All SUD services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. American Society of Addiction Medicine (ASAM) levels of care require reviews on an ongoing basis, as deemed necessary by the department to document compliance with national standards.

C. Children who are in need of SUD services should be served within the context of the family and not as an isolated unit. Services provided to children and youth shall include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody provided that written consent is obtained from minor. Coordination with other child-serving systems should occur as needed to achieve the treatment goals subject to the minor's consent and applicable privacy laws. All coordination and consent must be documented in the child's medical record.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities, and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

D. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.

D.1. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1890 (October 2018), LR 45:

§14303. Covered Services

A. The following SUD services shall be reimbursed under the Medicaid Program:

1. assessment;

2. outpatient treatment;
3. residential treatment; and
4. inpatient treatment.

B. Service Exclusions. The following services/components shall be excluded from Medicaid reimbursement:

1. - 2. ...

3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services; and

4. room and board for any rates provided in a residential setting.

5. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:

Chapter 145. Provider Participation

§14501. Provider Responsibilities

A. - D. ...

E. Providers shall maintain case records that include, at a minimum:

1. the name of the individual;
2. the dates and time of service;
3. assessments;
4. a copy of the treatment plans, which include at a minimum:
   a. goals and objectives, which are specific, measureable, action oriented, realistic and time-limited;
   b. specific interventions;
   c. the service locations for each intervention;
   d. the staff providing the intervention; and
   e. the dates of service;
5. progress notes that include the content of each delivered service, including the reason for the contact describing the goals/objectives addressed during the service, specific intervention(s), progress made toward functional and clinical improvement;
6. units of services provided;
7. crisis plan;
8. discharge plan; and
9. advanced directive.

F. Residential treatment facilities shall meet the following additional requirements:

1. Be a licensed organization, pursuant to the residential service provider qualifications described in the Louisiana Administrative Code and the Louisiana Medicaid provider manual.

2. Residential addiction treatment facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the MCO in writing within the time limit established by the department.

3. Provide full disclosure of ownership and control, including but not limited to any relative contractual agreements, partnerships, etc.

4. Follow all residential treatment provider qualifications and program standards in licensure, Medicaid provider manual, managed care contracts or credentialing.

5. Must deliver care consistent with the specifications in the ASAM Criteria or other OBH approved, nationally recognized SUD program standards, hours of clinical care, and credentials of staff for residential treatment settings.

6. Effective April 1, 2019, must offer medication-assisted treatment (MAT) on-site or facilitate access to MAT off-site, and appropriately document MAT options, education and facilitation efforts in accordance with requirements outlined in the Medicaid provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:

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 on family functioning, stability and autonomy as described in R.S. 49:972 because it will allow recipients in institutions for mental disease with an opioid use disorder/substance use disorder diagnosis to access critical treatment 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 child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 because it will allow recipients in institutions for mental disease with an opioid use disorder/substance use disorder diagnosis to access critical OUD/SUD treatment 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, December 27, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Substance Use Disorders 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 18-19. It is anticipated that $1,080($540 SGF and $540 FED) will be expended in FY 18-19 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 18-19. It is anticipated that $540 will be collected in FY 18-19 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 substance use disorders services in order to align these provisions with the Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver, a five-year 1115(a) demonstration waiver approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) to permit managed care organizations (MCOs) to provide opioid use disorder/substance use disorder (OUD/SUD) services to Medicaid recipients in an institution for mental disease (IMD) without regard to the monthly MCO length of stay limit for these residential treatment services in an IMD setting. Recipients in IMDs with OUD/SUD diagnoses will benefit from the implementation of this proposed Rule, since it ensures continued access to critical OUD/SUD treatment services that were already being provided prior to the waiver, without interruption in care. There is no anticipated impact as a result of this proposed rule which ensures alignment of the SUD provisions in the Louisiana Administrative Code with the CMS-approved 1115(a) waiver that continues ongoing expenditures previously being reimbursed as a cost effective alternative benefit (or "in lieu of") arrangement with the MCOs, does not add or expand service coverage, and allows the state to continue to draw down the same federal match for these services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to substance use disorders services providers for FY 18-19, FY 19-20 and FY 20-21.

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
1811#059	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Emergency Response Network Board

Trauma Program Recognition (LAC 48:I.19707)

Notice is hereby given that the Louisiana Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to codify in LAC 48:I.Chapter 197, Section 19707, a Rule revised by the Louisiana Emergency Response Network Board in a meeting of August 16, 2018, the following "Trauma Program Recognition", adopted as authorized by R.S. 9:2798.5. The Rule clarifies timeliness and requirements for hospitals seeking Trauma Program recognition.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 15. Emergency Response Network
Chapter 197. Trauma Program Recognition
§19707. Procedure for Trauma Program Recognition

A. - E. …

F. After loss of trauma program status for failing the ACS verification visit and focused review visit, trauma program status may be regained provided the following conditions are met:

1. A LERN designee and either the LERN trauma medical director or a trauma surgeon must review the deficiencies and findings of the ACS at a site visit;

2. The hospital must develop a remediation plan and apply to the LERN board for approval of trauma program status;

3. The LERN board will review the LERN team assessment of deficiencies and the hospital's remediation plan;

4. The LERN board must vote to approve the trauma program status request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), R.S. 40:2845(A)(1) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 42:1932 (November 2016), LR 45:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the

authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the proposed Rule will have no impact.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. 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 business.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of these proposed Rules have 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 increase on direct or indirect cost. The proposed Rule 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 my submit written comments relative to the proposed Rule until 4:30 p.m., Monday, December 10, 2018 to Paige Hargrove, Louisiana Emergency Response Network, 14141 Airline Hwy., Suite B, Building 1, Baton Rouge, LA 70817, or via email to paige.hargrove@la.gov.

Paige Hargrove
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Trauma Program Recognition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to increase expenditures for the Louisiana Emergency Response Network (LERN) by approximately $283 in FY 19 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

This amendment codifies the existing process for hospitals to regain Trauma Program status after failing a review by the American College of Surgeons (ACS). Trauma Program Recognition is a voluntary process.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no known effect on competition and employment.

Paige Hargrove	Evan Brasseaux
Executive Director	Staff Director
1811#033	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Licensed Professional Counselors Board of Examiners

Criminal History Records
(LAC 46:LX.Chapter 4)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners proposes Criminal History Records Information criteria in accordance with R.S. 37:1123.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to adopt rules for publication in the November 20th, 2018 edition of the *Louisiana Register*.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED
Part LX. Licensed Professional Counselors Board of Examiners
Subpart 1. Licensed Professional Counselors
Chapter 4. Criminal History Records
§401. Scope of Chapter

A. This Chapter governs the submission, retention, and use of criminal history records information in connection with applications for the initial license, renewal, or reinstatement of a license of PLPCs and LPCs license in conformity with R.S. 37:2372.1 and R.S. 37:1101-1123.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:

§403. Criminal History Record Information

A. The submission and use of criminal history records information with applications for an initial and reinstatement of licensee shall begin January 1, 2019 and renewals shall begin January 1, 2020. In the renewal of licensure, a random sample of licensees shall be required to submit a criminal history record information with fingerprints.

B. The board shall utilize criminal history record information to determine an applicant's suitability and

eligibility for licensure, and whether just cause exists for the board to refuse to issue, suspend, revoke, or impose probationary or other terms, conditions, or restrictions on any license held or applied for by an application for violation of any of these causes specified by R.S. 37:2359 or 37:2360, and the board's rules.

1. All applicants must submit a full set of fingerprints, and criminal history record information to the board from the Louisiana State Police Bureau of Criminal Identification and Information.

2. Fingerprints, and criminal history record information shall be submitted with application on board-approved forms.

3. Criminal history record information shall require all applicants to report whether he or she has been convicted of sex crimes and is registered with any state sex offender and child predator registry as required by Louisiana State Statute.

4. Any applicant that does not include the applicant's fingerprints, and criminal history record information, and disclosure/ registry of conviction of sex crime shall be deemed incomplete and shall not be considered by the board unless and until such requirements have been satisfied.

C. The submission of an application for licensure to the board shall constitute acknowledgment and consent by the applicant to:

1. any state or federal agency, including, but not limited to, the bureau and the FBI, to disclose and release to the board any and all state, national, or foreign criminal history record information and sex crime conviction and registry;

2. disclosure and release of such information to the board constitutes a waiver by the applicant of any privilege or right of confidentially;

3. allow the board to utilize criminal history record information to determine the applicant's suitability and eligibility for licensure to include but not limited to:

a. refuse to issue;

b. suspend;

c. revoke;

d. impose probationary; or

e. other terms, conditions, or restrictions on any license held or applied for by an applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:

§405. Confidentiality of Criminal History Record Information

A. Criminal history record information obtained by the board which is not already a matter of public record or to which the privilege of confidentially has not otherwise been waived or abandoned, shall be deemed nonpublic and confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating applicant's eligibility or disqualification for licensure.

B. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court, be released or otherwise disclosed by the board. However, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:

§407. Exceptions to Criminal History Information Requirement

A. The criminal history information requirements prescribed by the board shall not be applicable to licensed professional counselor or licensed marriage family therapist applicants seeking a temporary registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:

§409. Falsification of Criminal Record Information

A. An applicant who denies the existence or extent of criminal history record information on an application shall be deemed to have provided false, misleading, and/or deceptive information on an application for licensure, and to have engaged in unprofessional conduct, providing cause for the board to disqualify, suspend or revoke licensure.

B. Falsification of criminal record information may result in a formal hearing before the board in accordance with Chapter 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to require fingerprint criminal background checks has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by allowing an applicant's criminal background history to be checked.

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 change 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 by December 10, 2018 at 5 p.m. to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Baton Rouge, LA 70809. She is responsible for responding to inquiries in regard to removing these rules.

Jamie S. Doming
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Criminal History Records

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will result in nominal expenditure increases for the LA Licensed Professional Counselors Board (LPC Board) that will be absorbed utilizing existing annual revenue collections. The proposed rules allow the board to request fingerprint criminal history records for all new applicants and a portion of license renewals in accordance with R.S. 37:1123. The LPC Board will incur nominal expenditures associated with records processing and storage.

Additionally, in the event a license applicant or licensee falsifies criminal record information, the LPC Board may require a formal board hearing regarding the falsified information. However, these hearings will likely be absorbed within the board's normal meeting schedule.

The proposed rules will result in additional, indeterminable expenditures for the LA Bureau of Criminal Identification within the Dept. of Public Safety, Office of State Police, as the bureau will be performing additional background checks for LPC Board license applications and renewals. However, any expenditures associated with performing the additional background checks will be defrayed via fees associated with performing the screenings (see Part II).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase revenues for the statutorily dedicated Criminal Identification and Information (CI&I) Fund by an indeterminable amount beginning in FY 19. The LA Bureau of Criminal Identification within the Dept. of Public Safety, Office of State Police administers and facilitates background checks with total fees of $48 ($26 state background check, $10 fingerprinting, $12 federal background check) and retains $38 ($26 state background check, $10 fingerprinting, $2 from federal background check) associated with screening new license applicants and a sample of license renewals. Revenues accruing to the CI&I Fund will be used to defray expenditures associated with performing the criminal background checks.

The LPC Board reports receiving approximately 200 new license applications each year. To the extent future license applications are consistent with historical norms, the CI&I Fund will accrue approximately $7,600 ($38 in retained fees * 200 applicants) annually.

Furthermore, the CI&I Fund will receive revenues in excess of those associated with new applicants, as the LPC Board will request criminal background checks for a sampling of license renewals. The board reports licensing 5,000 individuals at present and that it issues 2-year licenses. For reference, to the extent 50% of licenses are renewed each year (2,500 licenses) and the LPC Board requests a 10% sample of renewals (250 licensees), the CI&I Fund will receive approximately $9,500 in revenues. However, the exact revenue increase is indeterminable and contingent upon the amount of license renewals in a given year, as well as the sample size requiring criminal background checks as determined by the LPC Board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will increase costs for applicants for licensure, as well as certain licensees renewing their licenses with the LPC Board. The background checks required in the proposed rules have associated fees of $48.

Aggregate costs for new license applications and license renewals are indeterminable and dependent upon the number of applications, as well as the chosen sample of licensees requesting renewals that are required to submit criminal record information. For reference, the LPC Board reports receiving approximately 200 new license applications each year. To the extent future applications for new licenses are consistent with historical norms, the aggregate costs for new licensees total $7,600. Furthermore, the board reports licensing 5,000 individuals at present and that it issues 2-year licenses. To the extent 50% of licenses are renewed each year (2,500 licenses) and the LPC Board requests a 10% sample of renewals (250 licensees), the aggregate cost for persons renewing licenses will total $9,500. However, the exact aggregate cost is indeterminable and contingent upon the amount of new license applicants, license renewals, and the sample size of license renewals requiring criminal background checks as determined by the LPC Board in a given year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will affect employment to the extent persons seeking a new license or license renewal from the LPC Board are disqualified from licensure as a result of submitting their criminal record information. The proposed rules will not affect competition.

Jamie S. Doming	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1811#005	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Licensed Professional Counselors Board of Examiners

Definitions and Licensee Status
(LAC 46:LX.503 and 507)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners proposes licensee status updates and definitions.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to amend §503 and adopt §507 for publication in the November 20, 2018 edition of the *Louisiana Register.*

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED
Part LX. Licensed Professional Counselors Board of Examiners
Subpart 1. Licensed Professional Counselors
Chapter 5. License and Practice of Counseling
§503. Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors

A. For purposes of this Part, the following definitions will apply.

Active Supervision—the process by which a supervisee receives one hour of face-to-face supervision with his/her board-approved supervisor for every 20 hours of direct client contact Active Supervision is based on direct client contact hours. Supervision hours shall be adjusted if the provisional licensed professional counselor has less than or more than 20 hours of direct contact. The supervisor and supervisee must meet at least one hour within a three-month period.

Administrative Supervisor—person responsible for the overall administrative functions of their agency/organization. The Administrative Supervisor is responsible for the control, oversight and responsibility of PLPC in the setting in which the PLPC is employed, contracted or volunteering.

Applicant—an individual who has submitted an application to the board for the initial review, renewal, reinstatement of a license or certification.

* * *

Bureau—the Louisiana State Police Bureau of Criminal Identification and Information.

Clinical Supervision—a distinct professional practice employing a collaborative relationship between a supervisor and a supervisee. At a minimum, this relationship has facilitative, evaluative, and supervisory components. The goal of Clinical Supervision is to enhance the professional competence, monitor the quality of services provided, maintain the ethical standards of practice, protect the welfare of the public, and serve as a gatekeeper for entry into the mental health counseling profession. All licensees who serve in a supervisory capacity are governed by the current ACA code of ethics for supervision. All licensees that supervise another person are governed by the code of conduct and regulatory standards regarding supervisor and supervision set forth by the Licensed Professional Counselors Board of Examiners. A supervisor may not be a relative of the PLPC. Relative of the PLPC is defined as spouse, parent, child, sibling of the whole-or half-blood, grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship. Caution must be exercised in dual relationships when serving as both the Administrative Supervisor and the LPC Supervisor.

Contract Employee/Private Contractor—an employee who works under contract for an employer. Hired for a specific job at a specific rate of pay; is not considered a permanent employee. A PLPC may be a contracted employee.

Criminal History Record Information—information collected by state and federal criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising from, including sentencing, criminal correctional supervision and release. It shall not include intelligence information gathered for investigatory purposed or any identification information that does not indicate involvement of the individual in the criminal justice system.

* * *

Licensure—any license, certification, or registration for the practice of mental health counseling approved by the board.

LPC Supervisor—provides clinical supervision to the PLPC, which must be approved by the board. The LPC Supervisor has the responsibility of assisting PLPCs in increasing their competences as a mental health professional. The LPC Supervisor has no control, oversight, or responsibility for the services of a PLPC whom they are supervising within the agency/organization they are employed, contracted or volunteering, unless the LPC supervisor also serves as the administrative supervisor of the PLPC. To be designated as a LPC Supervisor, one must be approved by the board and fulfill the requirements outlined in Chapter 8.

Practice of Mental Health Counseling/Psychotherapy—rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed or provisional licensed professional counselor, which is consistent with his/her professional training as prescribed by R.S. 37:1107(A)(8), and *Code of Ethics*/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which includes but is not limited to the following.

a. *Mental Health Counseling/Psychotherapy*—assisting an individual or group through psychotherapy by rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders. This professional relationship empowers diverse individuals, families, and groups to accomplish mental health, wellness, education, and career goals.

b. *Consulting*—interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations. Section 505 defines ongoing consultation and collaboration for assessment, diagnosis, and treatment of serious mental illnesses.

c. *Referral Activities*—the evaluation of data to identify problems and to determine the advisability of referral to other specialists.

d. *Research Activities*—reporting, designing, conducting, or consulting on research in counseling with human subjects.

e. *Appraisal*—

i. use or administration of tests of language, educational and achievement tests, adaptive behavioral tests, and symptoms screening checklists or instruments, as well as tests of abilities, interests, and aptitudes, for the purpose of diagnosing those conditions allowed within the scope of these statutes, defining counseling goals, planning and implementing interventions, and documenting clients progress as related to mental health counseling. Appraisal includes but is not necessarily limited to the following areas.

(a). *Abilities*—those normative-based individual and group administered instruments used to measure general mental ability vis-a-vis specific abilities.

(b). *Interests*—those normative-based individual and group administered instruments used to suggest educational and vocational adjustment, interpersonal relations, intrapersonal tendencies and interests, satisfaction from avocational pursuits, and other major phases of human development.

(c). *Aptitudes*—those normative-based individual and group administered instruments used to measure special ability related to a future task(s).

ii. Qualified licensed professional counselors as well as other appropriately licensed or certified professionals may also administer or use test of language, educational and achievement, adaptive behavior tests, and symptom screening checklists or instruments. The administration and interpretation of these tests are not exclusively within the scope of this regulation.

iii. Appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the *Louisiana Administrative Code*, Title 46, Part LX, Chapter 21, Code of Conduct for Licensed Professional Counselors and Provisional Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in this Chapter. A licensed professional counselor who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test and measurements and individual differences and must renew this privileging designation every two years (as defined in Chapter 7). Formal training shall include a practicum and supervised practice with appraisal instruments.

f. *Graduate Degree*—the substance of which is professional mental health counseling from a regionally accredited university (as defined in Chapter 7) and must conform to one of the criteria below:

i. a CACREP accredited-program or its equivalent as determined by the board.

ii. a counseling program incorporating the word "counseling" or "counselor" in its title;

iii. a program incorporating a counseling-related term in its title (e.g., marriage and family therapy); or

iv. a program incorporating the eight content areas, a counseling practicum, and a counseling internship.

g. The requisite graduate degree may not consist of a degree in any disciplines otherwise licensed by the state of Louisiana including, but not limited to, psychology, clinical psychology, or social work, with the exception of counseling psychology and vocational rehabilitation counseling programs.

h. *Internet Counseling*—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents via internet counseling must be fully licensed in Louisiana and must adhere to all applicable state laws relative to the practice of mental health counseling. R.S. 37:1111 prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a full and valid license issued by the Louisiana LPC board. No individuals holding a provisional license may engage in internet counseling.

Provisional Licensed Professional Counselor—any person by title or description of services incorporating the words "provisional licensed professional counselor" and who, under board-approved supervision (i.e. may not practice independently), renders professional mental health counseling/psychotherapy services denoting a client-counselor relationship in which the licensee assumes the responsibility for knowledge, skill, and ethical consideration needed to assist individuals, groups, organizations, or the general public, and who implies that he/she is provisionally licensed to practice mental health counseling.

* * *

Temporary Registered LPC—

a. any person who:

i. holds a full and unrestricted license or certificate in mental health counseling/psychotherapy in another state or U.S. territory;

ii. are temporarily employed in Louisiana to render mental health counseling services for not more than 30 consecutive days a year or during a declared state of emergency; and

iii. unless a state of emergency is declared a temporary registration shall only be issued once per licensee.

b. The board must pre-approve any exception to this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:

§507. Active, Inactive, Lapsed, Retired Status

A. Active License Status. An active license is one that is current. It allows the licensee to practice mental health counseling.

B. Inactive License Status. An inactive license is one that allows the licensee to pause their license for a period of time. A LPC or PLPC may request inactive status for up to one year. The licensee cannot request inactive status if his/her license has already lapsed or to avoid a disciplinary action. All requests must be submitted on the appropriate form for approval at the discretion of the board. The LPC or PLPC cannot practice mental health counseling as defined in these statutes with an inactive license status. If the LPC or PLPC wishes to reactivate his/her license, he/she must submit a reinstatement form.

1. If inactive status occurs beyond the renewal period, the renewal fees shall be waived and due at the next renewal period.

2. For a PLPC, during the inactive status the supervised experience time period is halted and shall resume once the PLPC resumes active status.

3. The licensee may be eligible for Inactive status for any of the following reasons with appropriate documentation:

a. for the birth and care of the licensee's newborn, adoption, or foster care child;

b. to care for an immediate family member (spouse, child, or parent) with a serious health condition; or

c. for medical leave when the licensee is unable to work because of a serious health condition;

d. for military deployment of an active service men or women and their immediate family.

4. A licensee must submit a written appeal to the board for any other unforeseen circumstances.

C. Lapsed License Status. A license becomes lapsed if the licensee does not request inactive status or retired status by date of license expiration. The LPC or PLPC cannot request lapsed status. This status is assigned due to inaction by the licensee. The LPC or PLPC cannot practice mental health counseling with lapsed status. If the LPC or PLPC wishes to renew their license, they must follow the procedures for licensure reinstatement. A LPC or PLPC who has a lapsed license will incur a late fee in addition to the renewal fee when requesting reinstatement. A LPC or PLPC who places his/her license on inactive status will not incur the late fee.

1. A lapsed license or privileging designation may be renewed within a period of 90 days after the date of licensure lapse upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement.

2. Application for renewal after 90 days from the date of licensure lapse will not be considered for renewal; the individual must apply under the current licensure and/or privileging guidelines and submit recent continuing education hours (CEHs) as part of application for licensure or privileging designation.

D. Retired License Status. This is a status available for those retired from the profession. A LPC can request retired status by submitting required forms. A LPC cannot request retired status if his/her license is already expired. A retired LPC cannot practice mental health counseling. If the retired LPC plans to reenact his/her license, he/she must reapply under current licensure requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this Rule on family has been considered. This proposal to create licensee statuses has no impact on family functioning, 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 any child, individual, or family as defined by R.S. 49:973.B

Provider Impact Statement

The proposed change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments by December 10, 2018 at 5 p.m. to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Baton Rouge, LA 70809.

Jamie S. Doming
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Definitions and Licensee Status

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in any additional costs or savings for state or local governmental units. The proposed rule changes clarify existing definitions and include new definitions regarding present practices of the LA Licensed Professional Counselors Board (LPC Board) pertaining to Licensed Professional Counselors and Provisional Licensed Professional Counselors. Furthermore, the proposed rule changes define the following license statuses: active, inactive, and retired. "Inactive" and "retired" are new license statuses under the proposed rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will reduce SGR collections for the LPC Board by an indeterminable amount. "Retired" is a new license status under the proposed rule changes, and it is unknown how many active practitioners will request this new status in lieu of maintaining an active license. The retired status has no associated fees, therefore to the extent persons enter retired status, the LPC Board will realize an indeterminable reduction in SGR collections. The reduction in SGR collections is indeterminable because the number of persons who will enter retired status is unknown. For reference, the board issues a 2-year license and renewal fees total $170.

Furthermore, to the extent practitioners enter "inactive" status, they may have their license renewal fees temporarily waived if their inactive period occurs beyond the license renewal period, and would then be allowed to pay the appropriate license renewal fee during the next renewal period. Practitioners may be inactive for up to one year. This provision may result in indeterminable, though likely marginal, revenue reductions in a given fiscal year, but will not affect aggregate license renewal fee collections for the board over time as persons entering inactive status will be required to pay their license renewal fees during the ensuing renewal period. The extent of the delay is dependent upon persons entering inactive status, as well as their license renewal timelines. For reference, the board issues a 2-year license and renewal fees total $170.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may benefit persons actively practicing as counselors by introducing two new license statuses. The first new license status is the "inactive" status, which allows counselors to pause their licensure and suspend active practice for up to one year in the event they are not able to practice. Counselors will be able to enter inactive status for no additional fee. Furthermore, counselors may have their license renewal fees temporarily waived if their inactive period occurs beyond the license renewal period, and would then be allowed to pay the appropriate license renewal fee during the next renewal period.

The second new license status is "retired" status, and will be available to persons with active licenses wishing to end active practice indefinitely for no additional fee. If a retired practitioner wishes to re-enter active practice, they must reapply under current licensure requirements.

Furthermore, the proposed rule changes place stricter guidelines on license renewals by altering timelines for lapsed licenses. Current administrative rules allow persons not renewing their licenses in a timely manner (entering "lapsed" status) up to two years to renew their lapsed licenses and continue active practice, provided they pay all applicable license fees and financial penalties, as well as meet all continuing education requirements. The proposed rule changes shorten the timeline from two years after non-renewal of a license to 90 days after non-renewal of a license. For reference, if a practitioner lapses their license and does not renew within the designated period, they must apply for a new license, including providing associated all fees and proof of fulfilling all continuing education requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jamie S. Doming	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1811#006	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Licensed Professional Counselors Board of Examiners

Provisional Licensed Professional Counselor
Licensure Requirements (LAC 46:LX.603 and 605)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners proposes clarification to PLPC licensure requirements which will meet CACREP standards.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to amend rules for publication in the November 20, 2018 edition of the *Louisiana Register*.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED
Part LX. Licensed Professional Counselors Board of Examiners
Subpart 1. Licensed Professional Counselors
Chapter 6. Application, Practice and Renewal Requirements for Provisional Licensed Professional Counselors
§603. Provisional Licensed Professional Counselors Licensing Requirements

A. - A.3. ...

4. has received a graduate degree, the substance of which is professional mental health counseling in content from a regionally-accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board and has accumulated at least 60 graduate credit hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling or the total equivalent hours in practicum and internship. Applicants may apply post-masters counseling courses towards licensure if their degree program consisted of less than 60 hours. All graduate and post-masters counseling courses must be completed with a grade no lower than C. All field experience courses must be completed with a grade of A, B, or P.

a. to be eligible for supervision as a provisional licensed professional counselor, the applicant must provide proof of completion of a supervised practicum and internship as listed below in item b. and at least one three-credit hour course in each of the following eight content areas. In order for a course to fulfill a content area requirement, it must include in a substantial manner the area in the description for the content areas;

i.-viii.(g). …

b. Mental Health Counseling Practicum and/or Internship

i. Mental Health Counseling Practicum. Licensure requires the completion of a mental health counseling/psychotherapy practicum totaling 100 clock hours. The practicum includes:

(a). a minimum of 40 hours of direct counseling/psychotherapy with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member;

(c). a minimum of one and a half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor.

ii. Mental Health Counseling Internship. Licensure requires the completion of a mental health counseling/psychotherapy internship totaling 600 clock hours. The internship includes:

(a). a minimum of 240 hours of direct counseling/psychotherapy with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an approved on-site supervisor that meets the supervisor requirements of the university.

(c). a minimum of 1.5 hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor.

5. - 6.d. …

e. the professional practice setting cannot include any practice setting in which the provisional licensed professional counselor operates, manages, or has an ownership interest (e.g., private practice, for-profit, non-profit, etc.); the supervisee may receive a wage for services provided;

f. the agency or employer may bill for services provided by the PLPC. The PLPC may not bill directly for services provided to clients and the PLPC may not bill under another person's name;

g. the licensee must be supervised by an administrative supervisor (in addition to receiving active, board-approved supervision) in order to volunteer counseling services or receive a wage for services rendered as an employee or private contractor. The control, oversight, and professional responsibility for provisional licensed professional counselors rests with the licensee's administrative supervisor in the setting in which they are employed, contracted or volunteering;

h. provisional licensed professional counselors must notify their administrative supervisor of the identity of their board-approved supervisor and the nature of the supervisory activities, including any observations or taping that occurs with clients, after obtaining the client's permission, in the setting;

i. a licensed mental health professional (e.g. LPC, LMFT, LCSW) must be employed in the professional setting in which the provisional licensed professional counselor is rendering counseling services and be available for case consultation and processing. The provisional licensed professional counselor must have obtained the administrative supervisor's approval of the licensed mental health professional prior to submitting the practice setting for board review. The licensed mental health professional may be the board-approved supervisor or the administrative supervisor if he/she meets each of the aforementioned requirements;

j. supervised experience accrued by the provisional licensed professional counselor in an exempt setting needs to meet the requirements in this rule if that supervised experience is to meet the requirements for licensure as set forth by R.S. 37:1107(A);

7. has provided to the board a declaration of practices and procedures, with the content being subject to board review and approval;

8. has received a letter from the board certifying that all the requirements for provisional licensed professional counselor, as defined in this Chapter, were met before accruing supervised experience hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:712 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:

§605. Supervised Practice Requirements

A. PLPC Supervision Requirements

1. This shall define and establish the minimum standards for supervised practice of PLPCs. *Supervision* is defined as a process in which the PLPC, engages in a collaborative relationship with a LPC Supervisor. The goal of supervision is to enhance and evaluate the PLPC's professional competence, monitor the quality of services provided, maintain the ethical standards of practice, protect the welfare of the public and providing a gatekeeping function for entry into the mental health profession.

2. Pursuant to R.S. 37:1107(A), a supervisee must document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than six years from the original date such supervision was approved. A supervisee must remain under supervision of a board-approved supervisor until receiving written notification of approval for licensure.

a.i. Based on the above, the required 3,000 hours of counseling/psychotherapeutic experience shall be accrued in the following manner.

(a). Direct Hours. A minimum of 1,900 hours in direct counseling/psychotherapeutic services involving individuals, couples, families, or groups:

(i). an applicant may utilize supervised direct hours earned in post-master's degree practicum and internship courses in counseling (from a regionally accredited university) toward the required 1900 hours of direct counseling/psychotherapeutic services. In order to be counted, the direct hours earned in practicum and internship courses must have occurred after the applicant has been approved for provisional licensure and is under the supervision of the applicant's board-approved supervisor. An applicant may not count hours spent supervising others (i.e., supervision courses, doctoral students supervising master's level students) as direct hours.

(b). Indirect Hours. A minimum of 1,000 indirect hours in counseling-related activities (i.e., client contact, case notes, staffing, case consultation, or testing/assessment of clients) or education at the graduate level in the field of mental health counseling as defined in R.S. 37:1101-1123:

(i). five hundred indirect hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board. Practicum and internship courses may not be included in the 30 graduate semester hours that are used to substitute for 500 hours of supervised experience if they are used to count toward an applicant's direct hours.

(c). Supervision Hours. A minimum of 100 hours of face-to-face supervision by a LPC Supervisor. Up to 25 percent of the supervision hours may be conducted by synchronous videoconferencing:

(i). supervision may not take place via mail, email, or telephone. Telephone, mail, or email contacts with supervisor may be counted under Subclause A.2.a.i.(b) of this Section (i.e., consultation), however, it cannot be counted as face to face supervision as defined in Subclause A.2.a.i.(c) of this Section.

ii. Acceptable modes for supervision of direct clinical contact are the following.

(a). Individual Supervision. The supervisory session is conducted by the LPC Supervisor with one PLPC present.

(b). Group Supervision. The supervisory session is conducted by the supervisor(s) with 2 and no more than 10 PLPCs present.

iii. Supervision hours include individual and/or group supervision as described below.

(a). A minimum of 50 of these 100 hours must be individual supervision.

(b). The remaining hours may be either individual supervision or group supervision.

3 Supervised experience hours for PLPC and PLMFT may be accrued concurrently, after receiving notification of approval from the board certifying that all the requirements

for both provisional licensed professional counselor and the provisional licensed marriage and family therapist have been met. If approval was not obtained on the same date for each provisional license, then concurrent accrual of hours cannot begin until the second provisional license has been approved. Retroactive supervision experience hours are not permitted.

4. Current PLPCs are required to remain under active supervision as defined in Chapter 5 until fully licensed.

B. Responsibility of Supervisee under Board-Approved Supervision

1. During the period of supervised counseling/psychotherapy experience, the only proper identification title is provisional licensed professional counselor or PLPC. Provisional licensed professional counselors shall not identify or represent themselves by any other term or title, including "licensed", "fully licensed", "licensed professional counselor", "LPC", or "counselor".

2. Each provisional licensed professional counselor must provide his/her clients with a disclosure statement (as outlined in the appendix of the code of conduct) that includes:

a. his/her training status; and

b. the name of his/her supervisor for licensure purposes.

3. Provisional licensed professional counselors must comply with all laws and regulations relating to the practice of mental health counseling (R.S. 37:1101-1123).

4. The provisional licensed professional counselor must maintain contact with his/her board-approved supervisor to ensure that active supervision requirements (as defined in Chapter 5 of this Part) are met.

5. Provide updates to the board and board-approved supervisor regarding changes in status on forms provided by the board within 30 days of said change. Failure to comply may result in a fine, loss of supervised experience hours, and/or disciplinary action. Changes in status include changes in:

a. relevant personal information, including contact information, physical address, name;

b. relevant practice setting information, including job title/duties, employment status;

c. status with the justice system, including notification of arrest, charges, convictions;

d. status with another licensure/credentialing body, including notification of suspension, revocation, or other disciplinary proceedings/actions;

e. the use of any narcotics, controlled substances, or any alcoholic beverages in a manner that is dangerous to the public or in a manner that impairs the supervisee's ability to provide mental health services to the public;

f. any medical condition which may in any way impair or limit the supervisee's ability to provide mental health services to the public with reasonable skill or safety.

6. The supervisee must maintain documentation of all supervised experience hours by employment location and type of hour (indirect, direct, and face to face supervision). It is recommended that a supervisee obtain the signature of the board-approved supervisor indicating review and approval of documentation at regular intervals.

7. The supervisee must renew his/her provisional license in accordance with §611 of this Chapter and maintain a valid provisional license in order to practice mental health counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:715 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to create licensee statuses has no impact on family functioning, 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 any child, individual, or family as defined by R.S. 49:973.B

Provider Impact Statement

The proposed change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments by December 10, 2018 at 5 p.m. to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Baton Rouge, LA 70809.

Jamie S. Doming
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Provisional Licensed Professional Counselor—Licensure Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in any additional costs or savings for state or local governmental units. The proposed rule changes clarify and update the minimum standards for provisional licensee applicants as governed by the LA Licensed Professional Counselors Board (LPC Board) to align with present education standards and current practice.

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)

Generally, the proposed rule changes clarify and update the minimum standards for provisional licensee applicants as governed by the LPC Board. However, the proposed rule changes increase the minimum hours for a mental health counseling internship by 300 hours, from 300 hours to 600

hours. Included in with the 600 hour minimum is an increase in the number of hours (120 additional hours, from 120 hours to 240 hours) that must consist of direct counseling with individuals and groups.

These changes to the mental health counseling internship align with standards published by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). Currently, most accredited universities offer counseling programs that meet or exceed CACREP standards. If a potential licensee is not currently meeting these standard requirements in their degree program they will have to increase practicum/internship hours outside of their curriculum while in their graduate program, which could result in additional costs for potential applicants. However, the LPC Board anticipates the requirement for additional internship/practicum hours will affect a small amount of applicants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Jamie S. Doming	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1811#067	Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 46—Long-Term Care Insurance
Policy Definition (LAC 37:XIII.Chapter 19)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to amend LAC 37:XIII.1907.

The purpose of LAC 37:XIII.1901 et seq. (Regulation 46—Long-Term Care Insurance) is to implement the long-term care insurance provisions of the Louisiana Insurance Code, R.S. 22:1181-1191. In July 2017, the Department of Insurance amended LAC 37:XIII.1901 et seq. to adopt changes made to date to the National Association of Insurance Commissioners' long-term care insurance model regulation, to adopt model regulation definitions, to make necessary technical amendments and redesignations to existing sections of LAC 37:XIII.1901 et seq. to accommodate the model regulation, and to make other technical amendments.

As published in July 2017, LAC 37:XIII.1907, as amended, contains a duplicate definition. The amendments intended to change the name of the definition for "Skilled Nursing Care, Intermediate Care, Personal Care, Home Care and Other Services" to "Skilled Nursing Care, Personal Care, Home Care, Specialized Care, Assisted Living Care, and Other Services". This change in the definition name reflected a change in terms used throughout the amended regulation. The amended regulation, as published, included the same definition twice: one with the amended name and one with the former name. LAC 37:XIII.1907 is being amended to delete the duplicated definition with the former and now obsolete definition name.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 19. Regulation 46—Long-Term Care Insurance
§1907. Policy Definitions

A. …

* * *

Skilled Nursing Care, Intermediate Care, Personal Care, Home Care and Other Services—Repealed.

* * *

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:976 (August 1997, LR 43:1394 (July 2017) (effective January 1, 2018), amended LR 45:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The amended regulation should have no measurable impact upon the stability of the family.
2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.
3. Describe the effect of the proposed regulation on the functioning of the family. The amended regulation should have no direct impact upon the functioning of the family.
4. Describe the effect of the proposed regulation on family earnings and budget. The amended regulation should have no direct impact upon family earnings and budget.
5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The amended regulation should have no impact upon the behavior and personal responsibility of children.
6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The amended regulation should have no effect on household income assets and financial security.
2. Describe the effect on early childhood development and preschool through postsecondary education development. The amended regulation should have no effect on early childhood development and preschool through postsecondary education development.
3. Describe the effect on employment and workforce development. The amended regulation should have no effect on employment and workforce development.
4. Describe the effect on taxes and tax credits. The amended regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The amended regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The amended regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The amended regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed change to the regulation. Such comments must be received no later than December 20, 2018, by 4:30 p.m. and should be addressed to Lynette Roberson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 46—Long-Term Care Insurance—Policy Defintion

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any additional costs or savings for state or local governmental units. The proposed rule change deletes a duplicative definition. Rule changes published in July 2017, added a duplicative definition regarding skilled nursing care. The amendments published in July 2017 were intended to change the name of the definition for "Skilled Nursing Care, Intermediate Care, Personal Care, Home Care and other services" to "Skilled Nursing care, Personal Care, Home Care, Specialized Care, assisted Living Care, and other services," however a new definition was added, resulting in two similar definitions. The proposed rule change deletes the definition that LDI intended to delete and replace in the July 2017 rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change 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)

The proposed rule change will not result in any costs or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Nick Lorusso	Evan Brasseaux
Chief Deputy Commissioner	Staff Director
1811#068	Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Plugging Credits
(LAC 43:XIX.104)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed amendment and adoption are made implement Act 526 of the 2016 Regular Session which authorizes the Commissioner to establish a program to allow for transferrable plugging credits in lieu of the bond with security in order to promote the plugging of orphaned oilfield sites and oilfield sites that have been inactive for at least five years.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 1. General Provisions
§104. Financial Security

A. - I.3. …

J. Plugging Credit Certificate Program

1. A Plugging Credit may be applied to any new or existing well in lieu of Financial Security required by Subsections A-H of this Section, on a 1 for 1 or 2 for 1 basis. Said credits may be obtained by:

a. one credit shall be awarded for plugging and site restoration of an orphan well after 8/1/16;

b. one half credit shall be awarded for plugging and site restoration of an operator's existing well that has been inactive for a minimum of five years on or after 8/1/16.

2. Wells must be plugged and abandoned and sites restored per Office of Conservation rules and regulations. All wells/sites must pass a final inspection before a plugging credit certificate will be issued.

3. Plugging credit certificates will be granted to operators who plug qualifying wells under Section 1.a and 1.b once application is made via Form APCC.

a. Plugging credit certificate will expire five years from the date issued unless used, in which case the plugging credit certificate will expire upon the proper plugging and abandonment of the well for which it is used.

b. Plugging credit certificates are transferrable to active operators via Form APCCO.

4. Plugging credit certificates can be applied to an existing or newly drilled well, on a one credit per well basis, which meet all of the following:

a. is in the same field as the plugged well;

b. is the same location type (land, inland water, or offshore) as the plugged well;

c. has a total depth that does not exceed 2000' more than the Total Depth or Plug Back Depth, whichever is less, of the plugged well. (All depths TVD)

5. Plugging credits may only be utilized by an operator in good standing. To be considered in good standing, an operator must not have any outstanding compliance orders at the time the plugging credit is used.

6. Once applied to a well, Plugging Credit Certificates cannot be transferred to another well. Plugging Credit Certificates cannot be combined with Financial Security. Each well must be fully covered by Financial Security or a Plugging Credit Certificate, not a combination of both mechanisms. In the event a plugged well approved under Subparagraphs 1.a. or 1.b. fails, the corresponding plugging credit certificate will be revoked and Financial Security will be required immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:1306 (June 2000), amended LR 27:1917 (November 2001), LR 41:952 (May 2015), LR 43:535 (March 2017), LR 45:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., December 14, 2018, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. 18-004. All inquiries should be directed to John Adams at the above addresses or by phone to (225) 342-7889. No preamble was prepared.

Richard P. Ieyoub
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Plugging Credits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to have any implementation costs to state or local governmental units. The proposed rule change codifies Act 526 of 2016 that establishes a program to allow for transferrable plugging credits in lieu of the bond with security in order to promote the plugging of orphaned oilfield sites and oilfield sites that have been inactive for at least five years. The Department of Natural Resources (DNR) anticipates it will be able to implement this program with existing staff and equipment.

DNR requires well operators that intend to drill to have financial security such as a certificate of deposit, letter of credit, or a performance bond. The financial security amount depends on the well location (land or water), the well depth, or the number of wells being covered by the operator. The proposed rule change will allow an operator to plug an orphaned well in exchange for a credit that can be used to offset the financial security required for a well of equal value or size. The majority of well operators have financial security based on the number of wells. For example, land well operators with 1-10 wells requires financial security in the amount of $50,000, 11-99 wells requires financial security in the amount of $250,000, and 100 and above wells requires financial security in the amount of $500,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will directly impact and benefit oil and gas well operators that would use the credit to offset their financial security requirement. The participation in this program is voluntary, but, in the event an operator chooses to

participate in the program, they could offset the number of wells they own by the amount of orphaned wells they choose to plug. The cost of plugging the well(s) on the orphaned list will be offset by the economic benefit gained in not having to post ordinary financial security on a new well or existing wells.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Gary Ross	Evan Brasseaux
Assistant Commissioner	Staff Director
1811#017	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section

Explosives Code (LAC: 55:I.1505, 1509 and 1531)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq, Act 315 of the 2018 Regular Session, and R.S. 40:1472.1 et seq, gives notice of its intent to promulgate amended rules which address the new age limit for blasters and handlers, and specify the amount of explosives that may be stored in magazines located inside buildings.

Title 55
PUBLIC SAFETY
Part I. State Police

Chapter 15 Explosives Code

Subchapter A. General

§1505. General Administrative Requirements

A. ...

B. No person under the age of 21 shall purchase or acquire explosives or explosive supplies.

C. - L. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2674 (December 2008), LR 35:491 (March 2009), LR 36:550 (March 2010), LR 40:2609 (December 2014), LR 45:

§1509. General Storage Requirements

A. - C. …

D. The ground around outdoor magazines shall slope away for drainage. The land surrounding outdoor magazines shall be kept clear of brush, dried grass, leaves, and other combustible materials for a distance of 50 feet in each direction.

E. - J. …

K. All factory buildings and magazines in which explosives are had, kept, or stored, must be located beyond the corporate limits of any city or town, except with the consent of the proper local authorities and the Office of the Deputy Secretary of Public Safety Services. In no instance shall magazines located inside buildings contain in excess of 50 pounds of explosives. Smokeless propellants shall not be included in these quantity limitations. Cap magazines must be separated from other magazines by a distance of at least 10 feet. Where such storage is permitted, it shall be located on the ground floor and at street level.

L. - N. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 36:550 (March 2010), LR 45:

§1531. General Requirements

A. The handling of explosives shall be performed only by a person holding a valid and subsisting license to use explosives.

B. - O. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 34:1038 (June 2008), LR 34:2676 (December 2008), LR 45:

Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule should not have any 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 should not have any 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 should not have any effect on the functioning of the family.

4. the effect of this Rule on family earnings and family budget. this Rule should not have any effect on family earnings and family budget.

5. the effect of this Rule on the behavior and personal responsibility of children. this Rule should not have any 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 Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the LA R.S. 49:973.

The agency has considered economic welfare factors 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 poverty.

Small Business Analysis

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. 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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through December 15, 2018.

Jason Starnes
Chief Administrative Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Explosives Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local government units. The proposed rule change codifies Act 315 of the 2018 Regular Legislative Session by changing the age at which an applicant may request an explosives license from twenty-one to eighteen. The proposed rule change also amends the requirements for storage of explosives.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may increase revenue collections for the Statutorily Dedicated Explosives Trust Fund for the Department of Public Safety (DPS) by an indeterminable amount. For each application for an explosives license, DPS collects an application fee that varies by the type and duration of the license. To the extent the new requirements result in more applications for explosives licenses, SGR revenue for DPS will increase.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may result in economic benefits for those persons between the ages of eighteen and twenty-one who are hired as a result of their new eligibility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may result in additional employment opportunities for applicants between the ages of eighteen and twenty-one as they are currently prevented from possessing an explosives license.

Jason Starnes
Chief Administrative Officer
1811#021

Evan Brasseaux
Staff Director
Legislative Fiscal Officer

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Board of Veterinary Medicine

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of board member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held in late January 2019. Interested persons should submit the names of nominees directly to the LVMA as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Wendy D. Parrish
Executive Director

1811#013

POTPOURRI

Department of Agriculture and Forestry
Board of Veterinary Medicine

Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The Board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the 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 8 - April 20, 2019	February 1, 2018
Mid November - Mid December 2019	August 1, 2019

The Board will also accept applications to take the Veterinary Technician National Examination (VTNE) which will be administered through American Association of Veterinary State Boards (AAVSB), for state registration of veterinary technicians as follows.

Test Date	Deadline To Apply
November 15 – December 15, 2018	October 15, 2018
March 15 – April 15, 2019	February 15, 2019
July 15 – August 15, 2019	June 15, 2019

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 2019:

Thursday, February 7, 2019
Thursday, April 4, 2019
Thursday, June 6, 2019 (Annual Meeting)
Thursday, August 1, 2019
Thursday, October 3, 2019
Thursday, December 5, 2019

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

1811#001

POTPOURRI

Department of Agriculture and Forestry
Office of Forestry

Hearing Notice

The Louisiana Forestry Commission has scheduled a meeting for 10 AM, Monday, December 3, 2018 at 5825 Florida Blvd., Baton Rouge, LA, LA 70806. The tentative agenda is as follows:

1. Call to Order
2. Roll Call
3. Public Comments
4. Approval of Minutes from September 10, 2018
5. Adjudicatory Hearing
   Stephen Cage, Case No. 18-000041
6. Budget
7. Division Reports
8. Old Business
9. New Business
   FPP Practices
10. Adjournment

This notice contains a tentative agenda and may be revised prior to the meeting. Revised notices may be reviewed on the board outside the Veterans' Memorial Auditorium in which the meeting is to be held.

This notice of public meeting hereby serves as a posting of R.S. 42:4.1 through R.S. 42:13; relative to the Louisiana's open meetings law, as required by R. S. 42:4.1B. A copy of these statutes may be reviewed in the office of the staff

counsel for the Department of Agriculture and Forestry located in the Louisiana Department of Agriculture and Forestry building at 5825 Florida Boulevard, Baton Rouge, LA 70806.

Wade Dubea
State Forester

1811#040

POTPOURRI

Department of Economic Development
Office of the Secretary

Public Hearing—Substantive Changes to Proposed Rule Amendments—Research and Development Tax Credit Program (LAC 13:I.Chapter 29)

Under the authority of R.S. 47:6015 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development published a Notice of Intent to amend its rules in the August 20, 2018, edition of the Louisiana Register. The notice solicited views, arguments, information, written comments and testimony. The purpose of this regulation is to implement legislative changes to the research and development tax credit program under R.S. 47:6015 as enacted by Act 336 of the 2017 Regular Session of the Legislature.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 29. Research and Development Tax Credit
§2903. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6015 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

* * *

Base Amount—

a. If the taxpayer is an entity that employs fifty or more persons, the base amount shall be eighty percent of the average annual qualified research expenses within Louisiana during the three years preceding the taxable years.

b. If the taxpayer is an entity that employs less than fifty persons, the base amount shall be fifty percent of the average annual qualified research expenses within Louisiana during the three preceding taxable years.

Credit Certification—a certification by LED of the amount of the research and development tax credit earned by a person for a particular tax year.

Custom Manufacturing or Custom Fabricating—the business of companies (custom fabricators and/or manufacturers) that assemble, fabricate, or manufacturer parts, equipment, assemblies, vessels, software or other products ("specified item") in response to specific design criteria and delivery schedule provided by the customer/client.

a. The typical business model acquisition process utilized by custom fabricators and/or manufacturers is as follows:

i. the customer/client providing the custom fabricator and/or manufacturer with the detail specific design criteria for the specified item in a document generally referred to as a "request for proposal";

ii. after review and analysis, the custom fabricator and/or manufacturer submits a "proposal" to the customer/client in which they commit to a specific price and delivery schedule to assemble, fabricate, or manufacturer the specified item requested by the customer/client in their request for proposal;

iii. if the proposal is acceptable, the customer/client will generally issue a "purchase order" commitment document to the custom fabricator and/or manufacturer agreeing to the terms of their proposal, and authorizing the custom fabricator or manufacturer to begin work per their proposal; and

iv. although the custom fabricator or manufacturer generally commits to a fixed price to produce the requested item, they have effectively negated most, if not all, material or unusual commercial transaction risks by their ability to analyze the required design criteria before committing to a specific price and delivery schedule within their proposal.

* * *

Professional Services Firm—a firm who is primarily engaged in work which requires specialized education, knowledge, labor, judgment or is predominantly mental or intellectual in nature; and which may require the holding of a professional license. These types of firms engage in activities which include, but are not limited to, architecture, engineering, legal services and accounting.

Qualified Research Expenses in the State—expenses for qualified research as defined under 26 U.S.C. §41(d) ("qualified research") that are qualified research expenses under 26 U.S.C. §41(b) ("qualified research expenses") and meet the following requirements:

a. - d. …

e. 26 U.S.C. §41(d) also excludes expenditures associated with certain activities from the definition of qualified research. These activities include:

i. - vi. …

Research and Development Tax Credits—credits against Louisiana income or corporation franchise taxes that are earned by a person pursuant to the provisions of the Research and Development Tax Credit Program provided by R.S. 47:6015.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of the Secretary, LR 38:351 (February 2012), amended by the Office of Business Development, LR 40:49 (January 2014), LR 40:1525 (August 2014), amended by the Department of Economic Development, Office of the Secretary, LR 45:

§2904. Type, Amount and Duration of Credit

A. Type. Any taxpayer meeting the following criteria shall be allowed a tax credit to be applied against income and corporation franchise taxes due:

1. employs 50 or more persons (including affiliates) and claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) for increasing research activities;

2. employs less than 50 persons (including affiliates), and claims for the taxable year a federal income tax credit under 26 U.S.C. 41(a) for the taxable year, or incurs qualified research expenses for the taxable year, as defined in 26 U.S.C. §41(b); and

3. receives a small business innovation research grant, as defined in R.S. 47:6015(D).

B. Amount. The amount of the credit authorized shall be equal to:

1. 5 percent of the difference between the qualified in-state research expenses in the state for the taxable year minus the base amount, if the applicant is an entity that employs 100 or more persons (including affiliates); or

2. 10 percent of the difference, between the Louisiana qualified in-state research expenses in the state for the taxable year minus the base amount, if the applicant is an entity that employs 50 to 99 persons (including affiliates); or

3. 30 percent of the difference, between the qualified in-state research expenses in the state for taxable year minus the base amount if the applicant is an entity that employs fewer than 50 persons (including affiliates); or

4. 30 percent of the small business innovation research grant award or small business technology transfer program funding received during the tax year.

C. Duration. No credit shall be allowed for research expenditures incurred, small business technology transfer program funds received, or small business innovation research grant funds received after December 31, 2021.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:1768 (August 2010), amended by the Office of the Secretary, LR 38:351 (February 2012), amended by the Office of Business Development, LR 40:50 (January 2014), LR 40:1526 (August 2014), amended Department of Economic Development, Office of the Secretary, LR 42:42 (January 2016), LR 45:

§2905. Certification of Amount of Credit

A. Prior to claiming a research and development tax credit on any tax return or selling any research and development tax credit, a person must apply for and obtain a credit certification from LED.

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

1. an application fee equal to 0.5 percent of the amount of the tax credits applied for, with a minimum of $500 and a maximum of $15,000, payable to Louisiana Department of Economic Development;

2. appropriate supporting documentation:

a. for taxpayers employing 50 or more residents, a federal income tax return and evidence of the amount of federal research credit for the same taxable year;

b. for taxpayers employing up to 50 residents:

i. either:

(a). a federal income tax return and evidence of the amount of federal research credit for the same taxable year; or

(b). a request that LED enter into an attest engagement with a certified public accountant ("CPA") authorized to practice in Louisiana or a tax attorney who is selected by LED for a report that focuses on verification of the applicant's expenditures and claimed qualified research activities as well as pay the deposit for such report in accordance with R.S. 36:104.1 and 47:6015; and

ii. evidence of the amount of qualified research expenses for the same taxable year;

c. for taxpayers claiming credits based upon the federal small business innovation research grant, evidence of the amount of such grant;

d. the LED may also require documentation, including but not limited to the following, as proof of an expenditure prior to certification:

i. wages:

(a). copy of W-2 for each employee who participates in qualifying research and development activities;

(b). percentage of each employee's salary that is dedicated to qualifying research and development activities; and

(c). Louisiana Workforce Commission quarterly report of wages paid for the company for the third and fourth quarter of the tax year in question;

ii. supplies:

(a). invoices with date of purchase included;

iii. contracted research:

(a). invoices with applicable dates or periods of work; and

(b). contracts for the research to be performed;

e. in order for any research and development project to qualify, the requesting company must identify:

i. the business component that was developed or improved;

ii the uncertainty that existed in the capability, method or design related to such business component;

iii. how the research was technological in nature; and

iv. the process of experimentation undertaken;

3. the total amount of qualified research expenses and the qualified research expenses in the state;

4. the total number of Louisiana residents employed by the taxpayer and the number of those Louisiana residents directly engaged in research and development;

5. the average wages of the Louisiana resident employees not directly engaged in research and development and the average wages of the Louisiana resident employees directly engaged in research and development;

6. the average value of benefits received by all Louisiana resident employees;

7. the cost of health insurance coverage offered to all Louisiana resident employees;

8. any other information required by LED.

C. Taxpayers qualifying for tax credit transfers under §2915 may apply for up to two credit certifications per calendar year. All other taxpayers shall be limited to one credit certification per calendar year.

D. LED shall review the application and issue a credit certification in the amount determined to be eligible and provide a copy to the Department of Revenue. The credit certification and the amount of such certification shall be considered preliminary and shall be subject in all respects to audit by the Louisiana Department of Revenue.

E. In order for credits to be awarded, a taxpayer must claim the expenditures within one year after December 31 of the year in which the expenditure was incurred. For example, company A buys a piece of equipment that would qualify for the research and development tax credit on May 15, 2011. In order for company A to receive a credit on that expenditure, the application for credit on that expense must be received by December 31, 2012.

F. Each year LED shall perform a detailed examination of at least 10 percent of all applications received prior to the issuance of credits on such applications.

1. LED shall select applications for examination based on one or more of the following:

a. a random sampling;

b. applicant's business sector; and

c. other selection criteria as determined by LED.

2. Upon notice that their application has been selected for examination, the applicant shall provide all supporting documentation requested by LED to show the amount of qualified research expenses for such taxable year.

3. The applicant bears the burden of proving that its activities meet the definition of qualified research under 26 U.S.C. §41(d).

4. LED still retains the right to examine a taxpayer's application after the issuance of credits and any credits disallowed following such examination shall be subject to recovery, recapture or offset.

G. If LED reviews a submission and determines that an applicant is not eligible for tax credits for a tax year, the company shall have six months from the date of disallowance to resubmit additional documentation for reconsideration. LED will not consider any additional documentation after this six-month period.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of Business Development, LR 36:1768 (August 2010), LR 38:351 (February 2012), LR 40:51 (January 2014), LR 40:1526 (August 2014), amended by the Department of Economic Development, Office of the Secretary, LR 42:42 (January 2016), LR 45:

§2911. Recapture of Credits

A. An application for credit certification shall constitute:

1. a consent by the taxpayer that credits granted under this Section, but later disallowed in whole or in part, may be recovered by the secretary of the Department of Revenue from the taxpayer applicant through any collection remedy authorized by the provisions of R.S. 47:6015(H); and

2. …

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004), amended by the Office of the Secretary, LR 38:352 (February 2012), amended by the Office of Business Development, LR 40:52 (January 2014), LR 40:1527 (August 2014).

§2913. Ineligible Businesses

A. - A.1. …

2. businesses primarily engaged in custom manufacturing or custom fabricating that do not have a pending or issued United States patent related to the qualified research expenditures claimed.

B. …

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 40:52 (January 2014), amended LR 40:1527 (August 2014).

§2915. Transfer of Certain Research and Development Credits

A. For tax years 2018 and later, credits based upon participation in either the Small Business Technology Transfer Program or the Small Business Innovation Research Grant not previously claimed by a taxpayer shall be transferable in accordance with the following provisions:

1. A single transfer or sale may involve one or more transferees.

2. Notice of the credit transfer shall be submitted by the applicant to the Louisiana Department of Revenue in writing within 10 business days of the transfer or sale of credits.

a. No transfer or sale of credits shall be effective until recorded in the tax credit registry in accordance with R.S. 47:1524.

b. The notification shall include the transferor's tax credit balance prior to transfer, a copy of any tax credit certification letter issued by the Department of Economic Development, the transferor's remaining tax credit balance after transfer, all tax identification numbers for both transferor and transferee, the date of the transfer, the amount transferred, a copy of the credit certificate, the price paid by the transferee to the transferor, and any other information required by the Department of Revenue.

c. The notification submitted to the Department of Revenue shall include a transfer processing fee of two hundred dollars per transferee.

d. Failure to comply with this Paragraph shall result in the disallowance of the tax credit until the taxpayers are in full compliance.

3. The transfer or sale of credits does not extend the time in which the credits can be used. The carryforward period for a credit that is transferred or sold begins on the date on which the credit was earned.

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 45:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on proposed substantive changes will be held on Thursday, January 3, 2019 at 10 am in the Griffon Conference Room at the Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne Villa
Undersecretary

1811#050

POTPOURRI

Department of Natural Resources
Office of Conservation
Environmental Division

Hearing Notice (Docket No. ENV 2019-01)

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Wednesday, January 9, 2019, at the DeSoto Parish Police Jury Building, located at 101 Franklin Street, Police Jury Meeting Room, Mansfield, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Brumley Investments, LLC, 13714 Hwy 171, Mansfield, Louisiana 71052. The applicant requests approval from the Office of Conservation to construct and operate a commercial deep well injection waste disposal facility for disposal of exploration and production waste (E and P Waste) fluids located in Section 32, Township 12 North, Range 14 West in DeSoto Parish.

The application is available for inspection by contacting Mr. Stephen Olivier, Office of Conservation, Environmental Division, Eighth Floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, Louisiana. Copies of the application will be available for review at the DeSoto Parish Police Jury building or the DeSoto Parish Public Library in Mansfield, Louisiana no later than 30 days prior to the hearing date. Verbal information may be received by calling Mr. Olivier at (225) 342-7394.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, January 16, 2019, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
Environmental Division
P.O. Box 94275
Baton Rouge, Louisiana 70804
Re: Docket No. ENV 2019-01
Commercial Facility Well Application
DeSoto Parish

Richard P. Ieyoub
Commissioner

1811#066

POTPOURRI

Department of Public Safety and Corrections
Oil Spill Coordinator's Office

Notice of Consent Decree—Breton Island Oil Spill

Action: Notice of Availability of a Consent Decree for Natural Resource Damages—LOSCO NRDA case file #LA2005_0612_1105 [Breton Island]. The Consent Decree for Natural Resource Damages is available for public review and comment for 30 days.

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); Louisiana Coastal Protection and Restoration Authority (CPRA); and the United States Department of the Interior through the United States Fish and Wildlife Service (FWS).

Authorities: The Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. Rev. Stat. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from an oil spill. The natural resource trustees for this incident include FWS, LOSCO, LDNR, LDEQ, LDWF, and CPRA (collectively, the "Trustees"). FWS is designated as a Trustee pursuant to Section 1006(b)(2) of OPA, 33 U.S.C. § 2706(b)(2), Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") (40 C.F.R. §§ 300.600, et seq.) and Executive Order 12580 (3 C.F.R., 1987 Comp. p. 193, 52 Fed. Reg. 2923 (January 23, 1987) as amended by Executive Order 12777 (56 Fed. Reg. 54757 (October 19, 1991)). LOSCO, LDNR, LDEQ, LDWF, and CPRA are designated as Trustees by the Governor of Louisiana pursuant to Section 1006(b)(3) of OPA, 33 U.S.C. § 3706(b)(3), and subpart G of the NCP. These same agencies serve as State Trustees under OSPRA according to La. R.S. 30:2451, et seq. and La. Admin. Code tit. 43, pt. XXIX, et seq. Hess Corporation ("Hess"), as the owner and operator of the storage tank that discharged oil, is the identified Responsible Party and is therefore liable according to 33 U.S.C. § 2702 and La. Rev. Stat. 30:2480 for natural resource damages resulting from the Incident.

Summary of Incident: On or about June 12, 2005, a storage tank on an offshore oil platform located in Breton Sound Block 51 owned and operated by Hess discharged an estimated 12 barrels of crude oil into Breton Sound, Plaquemines Parish, Louisiana (the "Incident"). Federal and state entities responded to the Incident to support clean-up efforts and assess the impact on the resources affected by the oil. Natural resources within the area that provide services to the public were adversely impacted by the discharged oil and response actions, including over 1,000 brown pelican fledglings and much of their nesting habitat on North Breton Island within the Breton National Wildlife Refuge.

On November 3, 2006, the Trustees issued a Notice of Intent to Conduct Restoration Planning for this Incident. The Trustees and Hess have been working cooperatively to evaluate and quantify the nature and extent of injuries to natural resources and services, and to determine the need for, type of, and scale of appropriate restoration actions.

Purpose: Pursuant to La. Admin. Code tit. 43, pt. XXIX, et seq., notice is hereby given that a document entitled, "Consent Decree for Natural Resource Damages" (CD) is available for public review and comment. Hess and the Trustees propose a cash settlement amount to expedite restoration for this Incident and to resolve Hess' liability for natural resource damages under Section 1002(a) and (b) of OPA, 33 U.S.C. § 2702(a) and (b), and Section 2480 of

OSPRA, La. R.S. 30:2480. The mutual objectives of Hess and the Trustees in entering into the proposed Consent Decree are: (i) to provide funding by Hess to the Trustees to restore, replace, or acquire the equivalent of the natural resources injured, destroyed, or lost as a result of the Incident; (ii) to provide payment by Hess to the Trustees to reimburse the remaining unpaid natural resource damage assessment costs incurred by the Trustees; and (iii) to resolve the Trustees' claims against Hess for natural resource damages under OPA and OSPRA as provided herein.

The CD is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review the CD and submit comments to the address listed below. The Trustees will consider comments received during the public comment period on the CD before finalizing the document. The Trustees are in the process of identifying and evaluating potential restoration projects that will appropriately address injuries to natural resources resulting from the Incident.

Public Participation: Interested members of the public are invited to view the CD via the internet at http://www.losco.state.la.us (look under Newsflash/current news for Breton Island NRDA Consent Decree Available For Public Comment) or by requesting a copy of the document from Gina Muhs Saizan at the address provided below:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
Gina.Saizan@la.gov

Public participation is encouraged. Opportunities to participate in the process include public availability of AR documents as well as an opportunity for the public to review and comment on draft restoration planning documents that will identify the Trustees' preferred restoration project(s) for this Incident. A restoration plan(s) will be finalized and released to the public identifying the selected compensatory restoration project(s) to be implemented by the Trustees. Public participation is consistent with all state and federal laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. Rev. Stat. 30:2480; and the OSPRA regulations, La. Admin. Code tit. 43, pt. XXIX, *et. seq.*

Comment Submittals: Comments to the CD must be submitted in writing or digitally to Gina Muhs Saizan on or before the end of the 30-day comment period.

For Further Information: Contact Gina Muhs Saizan at (225) 925-6606 or by email at Gina.Saizan@la.gov.

Marty J. Chabert
Oil Spill Coordinator

1811#018

CUMULATIVE INDEX
(Volume 44, Number 11)

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PPM—Policy and Procedure Memoranda
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N—Notice of Intent
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GR—Governor's Report
L—Legislation
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ADMINISTRATIVE CODE UPDATE

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