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Emergency Rules

DECLARATION OF EMERGENCY

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

Turtles (LAC 7:XXI.1909)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:2358.2 and 3:2358.10, notice is hereby given that the Department of Agriculture and Forestry is, by Emergency Rule, amending LAC 7:XXI.1909 regarding requirements for international shipments of turtles. The Emergency Rule was initially published at LR 42:512 and was last published at LR 44:1413 (August 8, 2018).

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

This Rule shall have the force and effect of law on the date of signature, December 6, 2018 and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry, or until permanent rules are promulgated in accordance with law.

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

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

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

2. - 6. …

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

8. - 9. …

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014), by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:

Mike Strain, DVM
Commissioner

1812#066

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—Assessment Programs and Performance Standards (LAC 28:XI.5701, 6803, and 6813)

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:XI, Subpart 3 in *Bulletin 118—Statewide Assessment Standards and Practices*. The revisions outline performance level cut scores for the LEAP 2025 United States history end-of-course assessment. This emergency action is necessary in order to ensure the timely release of 2018-2019 school performance scores (SPS) as required by R.S. 17:24. This also ensures that Louisiana is in compliance with its approved Louisiana Every Student Succeeds Act (ESSA) plan which, if not in place, could impact federal funding. This Declaration of Emergency, effective December 12, 2018, is for a period of 120 days from adoption, or until finally adopted as Rule.

Title 28
EDUCATION
Part XI. Accountability/Testing
Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices
Chapter 57. Assessment Program Overview
§5701. Overview of Assessment Programs in Louisiana [Formerly LAC 28:CXI.701]

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		
* * *		
Norm-Referenced Tests (NRTs)		
* * *		
Criterion-Referenced Tests (CRTs)		
* * *		
EOCT	Geometry	fall 2009-summer 2017
EOCT	Biology	fall 2010-spring 2018 (continued for graduating seniors and retesters in 2018-2019 only)
EOCT	Applied Algebra I form	spring 2011-summer 2013
* * *		
LEAP 2025	English I English II US History Geometry Algebra I	fall 2017-
LEAP 2025	Biology	fall 2018-
Integrated NRT/CRT		
* * *		
Special Population Assessments		
* * *		

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), LR 38:34 (January 2012), LR 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:1319 (July 2014), LR 40:2512 (December 2014), LR 44:465 (March 2018), LR 45:

Chapter 68. LEAP 2025 Assessments for High School

Subchapter A. General Provisions

§6803. Introduction

[Formerly LAC 28:CXI.1803]

A. - B.5. …

6. U.S. history.

NOTE: The biology 4-level end-of-course (EOC) test will continue to be utilized through spring 2018; beginning in the 2018-2019 school year, student knowledge and skills of state academic standards in biology will be measured by the LEAP 2025 biology assessment for students who are taking the course and are not graduating in 2018-2019; like U.S. History in 2017-2018, students who are retesting and are not repeating the course and students graduating in 2018-2019 will be allowed to complete the biology 4-level EOC for one more year. The English III EOC exam will continue to be available for students who entered a high school cohort in 2016-2017 or prior.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:214 (February 2009), LR 36:477 (March 2010), amended LR 38:35 (January 2012), LR 40:2514 (December 2014), LR 44:469 (March 2018), LR 45:

§6813. Performance Standards

[Formerly LAC 28:CXI.1813]

A. - B.5. …

* * *

6. U.S. History

U.S. History	
Achievement Level	**Scaled-Score Ranges**
Advanced	774-850
Mastery	750-773
Basic	725-749
Approaching Basic	711-724
Unsatisfactory	650-710

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:215 (February 2009), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:35 (January 2012), LR 39:76 (January 2013), LR 39:2444 (September 2013), LR 44:470 (March 2018), LR 45:

Dr. Gary L. Jones
President

1812#052

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Teaching Authorizations
(LAC 28:CXXXIX.2107, 2903, and 2905)

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:CXXXIX, Bulletin 126—*Charter Schools*. The revisions align current state policy with recently-enacted legislation of the 2018 Louisiana Legislature related to teaching authorizations of school personnel. This emergency action is necessary in order to provide for the implementation of newly-enacted legislation contained in R.S. 17:7(6) and 17:15, from the 2018 Regular Session of the Legislature. If this action is not taken, then the provisions contained in this legislation, which pertain to criminal background checks of teachers and the issuance of Louisiana teaching authorizations, will not be in effect in a timely manner for the 2018-2019 school year, putting the wellbeing of all students in the state of Louisiana in possible jeopardy. By taking emergency action, this will help to ensure a safe environment for all children attending school in Louisiana. This Declaration of Emergency, adopted on December 12, 2018, is in effect for a period of 120 days from adoption, or until adopted as a final Rule.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools
Chapter 21. Charter School Governance
§2107. Prohibitions

A. - I. …

J. A charter school shall not hire anyone:

1. as an administrator, teacher, substitute teacher, bus operator, substitute bus operator, janitor, or other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:587.1(C) unless approved in writing by a district judge of the parish and the district attorney. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer;

2. as an administrator, teacher, or substitute teacher if any of the following apply to anyone who has been:

a. convicted or has pled *nolo contendere* to any other felony offense even if adjudication was withheld or a pardon or expungement was granted;

b. found to have submitted fraudulent documentation to the board or department as part of an application for a Louisiana teaching certificate or other teaching authorization; or

c. found to have facilitated cheating on any state assessment as determined by the board.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 44:241 (February 2018), LR 45:

Chapter 29. Charter School Staff
§2903. Teaching Authorizations

A. This Section provides for the rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization to anyone seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school that does not require a Louisiana teaching certificate for the employment of a teacher.

B. Teaching authorizations shall be issued in accordance with LAC 28:CLXXI, Bulletin 745.

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 45:

§2905. Criminal History Review

A. - A.2. …

3. Repealed.

B. - D.1. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:3068 (November 2013), LR 44:245 (February 2018), LR 45:

Dr. Gary L. Jones
President

1812#051

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Teaching Authorizations
(LAC 28:CXV.501 and 504)

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:CXV, *Bulletin 741—Louisiana Handbook for School Administrators*. The emergency revisions align current state policy with recently-enacted legislation from the 2018 Louisiana Legislature related to teaching authorizations of school personnel. This emergency action is necessary in order to provide for the implementation of newly-enacted legislation contained in R.S. 17:7(6) and 17:15, from the 2018 Regular Session of the Legislature. If this action is not taken, then the provisions contained in this legislation, which pertain to criminal background checks of teachers and the issuance of Louisiana teaching authorizations, will not be in effect in a timely manner for the 2018-2019 school year, putting the wellbeing of all students in the state of Louisiana in possible jeopardy. By taking emergency action, this will help to ensure a safe environment for all children attending school in Louisiana. This Declaration of Emergency, adopted on December 12, 2018, is in effect for a period of 120 days from adoption, or until adopted as a final Rule.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 5. Personnel
§501. Criminal Background Checks

A. - A.3. …

4. Repealed.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:15, and 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:443 (March 2009), amended LR 35:1473 (August 2009), LR 39:2200 (August 2013), LR 45:

§504. Teaching Authorization

A. This Section provides for the rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization to a person seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school that does not require a Louisiana teaching certificate for the employment of a teacher.

B. Teaching authorizations shall be issued in accordance with LAC 28:CLXXI, Bulletin 745.

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 45:

Dr. Gary L. Jones
President

1812#050

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Teaching Authorizations (LAC 28:LXXIX.123 and 125)

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:LXXIX, *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*. These emergency revisions align current state policy with recently-enacted legislation from the 2018 Louisiana Legislature related to teaching authorizations of school personnel. This emergency action is necessary in order to provide for the implementation of newly-enacted legislation contained in R.S. 17:7(6) and 17:15, from the 2018 Regular Session of the Legislature. If this action is not taken, then the provisions contained in this legislation, which pertain to criminal background checks of teachers and the issuance of Louisiana teaching authorizations, will not be in effect in a timely manner for the 2018-2019 school year, putting the wellbeing of all students in the state of Louisiana in possible jeopardy. By taking emergency action, this will help to ensure a safe environment for all children attending school in Louisiana. This Declaration of Emergency, adopted on December 12, 2018, is effective for a period of 120 days from adoption, or until adopted as a final Rule.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Chapter 1. Operation and Administration
§123. Personnel

A. - A.2. …

3. The request must include the person's fingerprints in a form acceptable to the bureau.

a. Repealed.

B. - F.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:15, 17:22(6), 17:391.1-391.10, 17:411, and 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3074 (December 2005), LR 39:1439 (June 2013), LR 45:

§125. Teaching Authorization

A. This Section provides for the rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization to a person seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school, that does not require a Louisiana teaching certificate for the employment of a teacher.

B. Teaching authorizations shall be issued in accordance with LAC 28:CLXXI, Bulletin 745.

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 45:

Dr. Gary L. Jones
President

1812#049

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 745—Louisiana Teaching Authorizations of School Personnel (LAC 28:CLXXI.Chapter 1)

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:XXXIX, *Bulletin 745—Louisiana Teaching Authorizations of School Personnel*. These emergency revisions align current state policy with recently-enacted legislation from the 2018 Louisiana Legislature related to teaching authorizations of school personnel. This emergency action is necessary in order to provide for the implementation of newly-enacted legislation contained in R.S. 17:7(6) and 17:15, from the 2018 Regular Session of the Legislature. If this action is not taken, then the provisions contained in this legislation, which pertain to criminal background checks of teachers and the issuance of Louisiana teaching authorizations, will not be in effect in a timely manner for the 2018-2019 school year, putting the wellbeing of all students in the state of Louisiana in possible jeopardy. By taking emergency action, this will help to ensure a safe environment for all children attending school in Louisiana. This Declaration of Emergency, adopted on December 12, 2018, is effective for a period of 120 days from adoption, or until adopted as a final Rule.

Title 28
EDUCATION
Part CLXXI. Bulletin 745—Louisiana Teaching Authorizations of School Personnel
Chapter 1. Teaching Authorizations
§101. Introduction

A. This Chapter provides for rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization (TA) to anyone seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school, that does not require a Louisiana teaching certificate for employment.

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 45:

§103. Teaching Authorizations

A. In accordance with Act 634 of the 2018 Regular Legislative Session, a teaching authorization (TA) shall be

required for individuals seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school, that does not require a Louisiana teaching certificate for employment.

B. A TA shall be denied to anyone who has:

1. submitted fraudulent documentation to the Board of Elementary and Secondary Education (the board) or the state Department of Education (LDE);

2. facilitated cheating on any state assessment administered to students; and

3. been convicted of or pled nolo contendere to a felony offense.

C. Eligibility Guideline

1. The applicant is seeking employment in a Louisiana public or nonpublic school in a role in which a Louisiana teaching certificate is not required.

D. A request for a TA shall be submitted directly to the LDE by the employing school governing authority where the individual is seeking employment.

E. A TA is valid only for the period during which the individual is employed by the employing school governing authority making the initial TA request.

F. An individual seeking to change employing school systems must be issued a new TA.

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 45:

§105. Suspension and Revocation of Teaching Authorizations for Criminal Offenses

A. A Louisiana teaching authorization shall be suspended and revoked if the individual holding the teaching authorization has been convicted of any felony offense whatsoever. If the Louisiana teaching authorization of an individual is expired, and the individual has been convicted of a felony offense, this information shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. When the department is notified that any teacher has been convicted of a specific crime:

1. departmental staff shall attempt to contact the educator to inform him/her that the department has information regarding a criminal conviction and is proceeding under this policy to suspend the teaching authorization;

2. the teacher shall have 10 days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence;

3. if the teacher cannot be reached or if his/her employment status cannot be determined, suspension of the authorization shall proceed, as will all other steps in the process outlined in this policy;

4. if the department determines that there is evidence that an educator has been convicted of a criminal offense, the teaching authorization issued to that educator shall be suspended. The board, the educator, and the employing school system shall be notified that the teaching authorization has been suspended pending official board action per revocation proceedings;

5. the educator shall be notified by any appropriate means of notice that his/her teaching authorization has been suspended and that the teaching authorization will be revoked unless documentation is provided verifying that he/she was not convicted of the crime. The educator shall provide copies of any documentation that verifies his/her identity and refutes the existence of a criminal conviction;

6. if the conviction upon which a teaching authorization has been suspended or revoked is reversed, such action shall be communicated to the board through documentation provided by the applicant. The board may receive such information and order reinstatement of the teaching authorization;

7. upon official action by the board, any educator whose teaching authorization has been revoked shall be notified of such action. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for reinstatement of his/her teaching authorization.

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 45:

§107. Suspension and Revocation of Teaching Authorizations Due to Participation in Cheating

A. A Louisiana teaching authorization shall be suspended and revoked if the individual holding the teaching authorization has been found by the LDE to have participated in *cheating*, as defined in LAC 28:CXXXI.903. If the Louisiana teaching authorization of an individual has expired, and the individual has been found to have participated in cheating, this information shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. When the department has determined that any teacher or administrator has been found to have participated in cheating, the following process shall take place.

1. Departmental staff shall attempt to contact the teacher or administrator with notification that the department has information regarding his/her participation in cheating and is proceeding under this policy to suspend the teaching authorization.

2. The teacher or administrator shall have 10 working days from the date of notification to provide verification that he/she has not been found to have participated in cheating. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

3. If the teacher or administrator cannot be reached, suspension of the teaching authorization shall proceed, as will all other steps in the process outlined in this policy.

4. If the department determines that a teacher or administrator was found to have participated in cheating, the teaching authorization shall be suspended. The board, the educator, and the employing school system shall be notified

that the teaching authorization has been suspended pending official board action per revocation proceedings.

5. The educator or administrator shall be notified by any appropriate means that his/her teaching authorization has been suspended and that the authorization will be revoked unless documentation is provided verifying that he/she was not found to have participated in cheating.

6. If the department subsequently determines that the teacher or administrator did not participate in cheating, such action shall be communicated to the department and/or the board through documentation provided by the department. The board may receive such information and may order reinstatement of the teaching authorization.

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 45:

§109. Suspension and Revocation of Teaching Authorizations due to Fraudulent Documentation

A. A Louisiana teaching authorization shall be suspended or revoked if an educator presents fraudulent documentation pertaining to his/her teaching authorization to the board or the LDE. If the Louisiana teaching authorization of an individual is expired, and the individual has submitted fraudulent documents pertaining to authorization, this information shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. The department shall conduct an investigation prior to determining that an educator has submitted fraudulent documentation pertaining to his/her teaching authorization. Upon confirmation of the information investigated, the department shall notify the educator that his/her teaching authorization has been suspended pending official board action per revocation proceedings.

C. Such records review shall be limited to the issue of whether or not the document submitted was fraudulent. The educator shall provide the board with any documentation that will refute the fraudulent nature of the document.

D. 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 authorization should be revoked. The decision of the board shall be transmitted to the local school board and to the affected educator.

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 45:

§111. Reinstatement of Teaching Authorizations

A. Reinstatement will never be considered for an educator who has 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, 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14:92, 14:93, 14:93.3, 14:93.5, 14:106, 14.283, and 14:286.

B. Reinstatements of teaching authorization shall not be considered until at least five years have elapsed from the date of entry of final conviction, submission of fraudulent documentation, or the date of investigation results regarding the participation in cheating, which resulted in teacher authorization suspension, revocation, or denial.

C. An applicant may apply to the board for reinstatement of his/her Louisiana teaching authorization 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, or investigations regarding participation in cheating.

2. In criminal cases, there has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide:

a. relevant documentation; and

b. a current state and FBI criminal history background check from state police that is clean and clear and evidence that there has been successful completion and relevant documentation of all conditions/requirements of any parole and probation.

D. Applicant Responsibilities

1. Contact the office of the Board of Elementary and Secondary Education and request a records review for reinstatement of the authorization.

2. Provide each applicable item identified in Subsection C of this Section, evidence that all requirements for teaching authorization have been successfully completed, and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials, or from other community leaders.

E. State Board Responsibilities

1. The board will consider the request for reinstatement and documentation provided. The board is not required to conduct a reinstatement records review and may summarily deny a request for issuance/reinstatement.

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

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 authorization.

4. In accordance with R.S. 42:17, 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; 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 authorization 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), 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 45:

Dr. Gary L. Jones
President

1812#046

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Teaching Authorizations
(LAC 28:CXXXI.311, 504, 903, 905, 906, and 911)

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:CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. These emergency revisions align current state policy with recently-enacted legislation from the 2018 Louisiana Legislature related to teaching authorizations of school personnel. This emergency action is necessary in order to provide for the implementation of newly-enacted legislation contained in R.S. 17:7(6) and 17:15, from the 2018 Regular Session of the Legislature. If this action is not taken, then the provisions contained in this legislation, which pertain to criminal background checks of teachers and the issuance of Louisiana teaching authorizations, will not be in effect in a timely manner for the 2018-2019 school year, putting the wellbeing of all students in the state of Louisiana in possible jeopardy. By taking emergency action, this will help to ensure a safe environment for all children attending school in Louisiana. This Declaration of Emergency, adopted on December 12, 2018, is in effect for a period of 120 days from adoption, or until adopted as a final Rule.

Title 28
EDUCATION
Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 3. Teaching Authorizations and Certifications
Subchapter A. Standard Teaching Authorizations

Editor's Note: The name of the Division of Student Standards and Assessments has been changed to The Division of Student Standards, Assessments, and Accountability.

§311. World Language Certificate (WLC) PK-12

A. - E. …

F. A foreign language teacher in a certified foreign language immersion program who cannot be certified or issued an authorization to teach through the board's Foreign Associate Teacher Program may be allowed to teach without passing the required examination, provided the teacher has at least a baccalaureate degree and complies with state laws relative to background checks and review of criminal history.

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 32:1800 (October 2006), amended LR 33:1618 (August 2007), LR 34:233 (February 2008), LR 35:642 (April 2009), LR 36:486 (March 2010), LR 38:1952 (August 2012), LR 40:280 (February 2014), LR 43:1307 (July 2017), LR 44:745 (April 2018), LR 45:

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

§903. Definitions

A. - B.1. …

2. those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and those under the federal criminal code having analogous elements of criminal and moral turpitude. (Federal criminal code provisions are in title 18 of U.S.C.A.) Specifically:

Crimes Reported under R.S. 15:587.1	
* * *	
*R.S. 14:81.4	Prohibited sexual conduct between educator and student
*R.S. 14:82	Prostitution
*R.S. 14:82.1	Prostitution; Persons under seventeen; Additional offenses
* * *	
R.S. 14:89.2	Crime against nature by solicitation
*R.S. 14:92	Contributing to the delinquency of juveniles
*R.S. 14:93	Cruelty to juveniles
* * *	
*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 45:

§905. Denial of Initial or Renewal Certificates

A. An application for a Louisiana teaching certificate or an application for the renewal of an expired Louisiana teaching certificate shall be denied if the department determines that the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever or has submitted fraudulent documentation, or has participated in cheating. A person convicted of an offense as defined herein or has submitted fraudulent documentation, or has participated in cheating may apply for a certificate if the following conditions apply:

1. five years have elapsed from date of entry of final conviction, the date of entry of his plea of nolo contender, or from the date of receipt of notification from the board of its determination that the person submitted fraudulent documentation or facilitated cheating on a state assessment;

2. the board has received a request from the person for a formal appeal and has conducted a review of the person's background and the person has provided letters of recommendation to the board.

B. - 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 32:1830 (October 2006), amended LR 44:266 (February 2018), LR 45:

§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. 14:283, 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, 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14.92, 14:93, 14:93.3, 14:93.5, 14:106, 14:283, and 14:286.

B. - E.7. …

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 45:

§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. 14.283, 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, 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14:92, 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 five 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 of this Part which resulted in certification suspension and/or revocation.

C. - E.7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), R.S. 17:391.1-391.10, and 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 45:

Dr. Gary L. Jones
President

1812#047

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression
Policies and Procedures—Regular Placement
(LAC 28:XXXIX.503)

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:XXXIX.Chapter 5 in *Bulletin 1566—Pupil Progression Policies and Procedures*: §503. Regular Placement. The proposed policy revisions provide relative to student placement in first grade and regarding the transfer of students from out-of-state schools, non-public schools, and home study programs. These emergency revisions outline prerequisites to enrollment in first grade, and requirements for students transferring into public schools seeking to enroll in fifth and ninth grade. This emergency action is necessary in order to align transfer student placement requirements in a timely manner for out-of-state transfer students with current requirements for in-state transfer students. By aligning these two policies at the beginning of the 2018-2019 school year, as opposed to the time in which the corresponding Notice of Intent becomes a final Rule, this will provide for the wellbeing of all transfer students in Louisiana (both in-state and out-of-state), providing local education agencies (LEAs) with standards that are more consistent. This emergency action will guarantee that students are more accurately assessed and placed at the appropriate grade-level in a timely manner and based on individual student needs. This Declaration of Emergency, adopted on December 12, 2018, is effective for a period of 120 days from adoption, or until adopted as a final Rule.

Title 28
EDUCATION
Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures
Chapter 5. Placement Policies—General Requirements
§503. Regular Placement

A. - A.1.e. …

2. Every child, as a prerequisite to enrollment in any first grade of a public school, shall have attended at least a full-day public or non-public kindergarten for a full school year, or shall have satisfactorily passed an academic readiness screening administered by the school system prior to the time of enrollment for the first grade. Each school system shall establish the academic readiness level for its first grade based on criteria established by the system. Any child not able to meet kindergarten attendance requirements due to illness or extraordinary, extenuating circumstances as determined by the school governing authority, shall be required to satisfactorily pass an academic readiness screening administered by the school system prior to the time of enrollment for the first grade. In accordance with R.S. 17:221, any child below the age of seven who legally enrolls in school shall be subject to state laws regarding compulsory attendance and promotion requirements set forth by the school system in accordance with this bulletin.

B. - D.2.a. …

E. Transfer Students

1. The local school board shall establish written policies for the placement of students transferring from all other systems and home schooling programs (public, nonpublic, both in and out-of-state, and foreign countries).

a. Students in grades 5 and 9 transferring to a public school from any in-state nonpublic school (state-approved and not seeking state approval), any approved home study program, or Louisiana resident transferring from any out-of-state school, shall be administered the English language arts and mathematics portions of the LEAP placement test. Students who have scored below the "basic" achievement level shall have placement and individual academic supports addressed in the same manner as non-transfer students in accordance with §701 and §703.

b. Any child transferring into the first grade of a public school from out of state and not meeting the requirements for kindergarten attendance shall be required to pass an academic readiness screening administered by the school system prior to the time of enrollment for the first grade, in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:765 (April 2014), LR 40:1332 (July 2014), LR 40:2533 (December 2014), LR 41:1271 (July 2015), LR 44:480 (March 2018), LR 44:1003 (June 2018), LR 45:

Dr. Gary L. Jones
President

1812#048

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 113, 303, 304, 307, 703, 907, 1103, 1307, 1503, 2503, 3101, 3103, 3105, 3106, 3107 and 3501)

The Louisiana Tax Commission exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations. This rule is hereby adopted on the day of promulgation.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2019. Cost indexes required to finalize these assessment tables are not available to this office until late October 2018. The effective date of this Emergency Rule is January 1, 2019.

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

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

A. - F.3.h. …

G. Special Assessment Level

1. - 1.d.…

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds $75,594 for tax year 2019 (2020 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. …

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March

1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:528 (March 2014), LR 41:671 (April 2015), LR 42:744 (May 2016), LR 43:648 (April 2017), LR 44:577 (March 2018), LR 45:

§113. Assessments: General Information

A. Assessment Date. Assessments shall be made on the basis of the condition of things existing on the first day of January of each year (R.S. 47:1952). For purposes of determining exemptions in Orleans Parish, the status of property as of August 1 of each year shall be determinative.

B. Domicile. All property subject to taxation, including merchandise or stock in trade, shall be placed upon the assessment lists in the respective parishes or districts where situated. Personal property other than aircraft (§1501.A.4.), drilling rigs (§1101.B.), leased equipment (§2101.A.), watercraft (§701.A.), and public service property (La. R.S. 47:1855) acquires a situs at the domicile of the holder or owner, but tangible personal property used in business operations in any other taxing district is to be taxed where situated on January 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1952.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:677 (April 2008), LR 45:

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

A. Electronic Change Order Specifications

* * *

B. Property Classification Standards

Class Code	Class Description (TC-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
Real Estate				
* * *	* * *	* * *	* * *	* * *
40	Improvements For Residential Purposes	4000	Single Family Residence	Single Family Residence (Free standing structure or improvement) including decks, patios, pavement, swimming pools, hot tubs (Jacuzzi), gazebos, etc.
* * *	* * *	* * *	* * *	* * *

C. Electronic Tax Roll Export Specifications

* * *

Assessment Information (Assmt.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *
assessment_status	Character	2	Yes	"AC" = Active, "AJ" = Adjudicated, "EX" = Exempt/Tax Free, "IE" = Industrial Exemption, "RS" = Restoration and "OT" = Other
* * *	* * *	* * *	* * *	* * *

Chapter 3. Real and Personal Property

§303. Real Property

A. - C.6. …

D. The Louisiana Tax Commission has ordered all property to be reappraised for the 2016 tax year in all parishes. All property is to be valued as of January 1, 2015.

1. The Louisiana Tax Commission has ordered all property to be reappraised for the 2020 tax year in all parishes. Beginning in tax year 2020, all real property is to be valued as of January 1, 2019.

E. …

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

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 42:745 (May 2016), LR 43:650 (April 2017), LR 44:577 (March 2018), LR 45:

Assessment Value Information (Avalue.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *
homestead_credit	Numeric	6	Yes	Assessed value to be credited by Homestead Exemption.
* * *	* * *	* * *	* * *	* * *

Assessment Millage Information (Amillage.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *
millage	Numeric	7.3	Yes	Millage (Format: 999.99)
* * *	* * *	* * *	* * *	* * *

Millage Group Information (Tgroup.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *
millage	Numeric	7.3	Yes	Millage (Format: 999.99)
* * *	* * *	* * *	* * *	* * *

* * *

Improvement Information (Improve.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *
imp_tsqft	Numeric	10.2	No	Square footage of all structures assessed. (Format: 999999.99)
* * *	* * *	* * *	* * *	* * *

* * *

Tax Exemption Program Information (TEP.txt)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
tax_year	Numeric	4	Yes	Tax year submitting (ex. 2017, 2018)
fips_code	Numeric	5	Yes	Parish FIPS code
assessment_no	Character	20	Yes	Assessment number.
business_name	Character	50	Yes	Business named on the contract
contract_no	Character	20	Yes	Contract number
contract_start_date	Character	10	No	Date contract started (Format: 01/01/1999)
contract_end_date	Character	10	No	Date contract ends (Format: 01/01/1999)
contract_status_type	Character	2	Yes	"IE" = Industrial Exemption, "RS" = Restoration
original_contract_amt	Numeric	12	Yes	Value of the original contract
revised_contract_amt	Numeric	12	No	Current value of contract, if revisions have been made
exemption_percent	Numeric	3	Yes	Default is 100%
fair_market_value	Numeric	12	Yes	Fair Market Value
assessed_value	Numeric	12	Yes	Total assessed value of the property (based on assessment level)
exempt_taxes	Numeric	12	Yes	Total tax amount subject to exemption/abatement

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:529 (March 2014), LR 41:672 (April 2015), LR 42:745 (May 2016), LR 43:651 (April 2017), LR 44:578 (March 2018)

§307. Personal Property Report Forma

The appropriate self-reporting Personal Property Report Form, is to be forwarded each year, on or before February 15 in the year in which the property is to be appraised, to each person in whose name the property is assessed. Upon

ompletion, the property owner shall return the form to the assessor by the first day of April of that year or 45 days after receipt, whichever is later. Before the close of the open roll inspection period, the property owner shall also submit to the assessor, or the designee contracted by the assessor, any and all additional documentation and information the property owner believes is relevant to the determination of fair market value of the reported property.

A.1. - B.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:2324 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 2:358 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 33:489 (March 2007), LR 45:

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2018	0.982	1	94	.92
2017	1.016	2	87	.88
2016	1.036	3	80	.83
2015	1.028	4	73	.75
2014	1.038	5	66	.69
2013	1.051	6	58	.61
2012	1.060	7	50	.53
2011	1.090	8	43	.47
2010	1.124	9	36	.40
2009	1.115	10	29	.32
2008	1.148	11	24	.28
2007	1.193	12	22	.26
2006	1.258	13	20	.25

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2018	0.982	1	97	.95
2017	1.016	2	93	.94
2016	1.036	3	90	.93
2015	1.028	4	86	.88
2014	1.038	5	82	.85
2013	1.051	6	78	.82
2012	1.060	7	74	.78
2011	1.090	8	70	.76
2010	1.124	9	65	.73
2009	1.115	10	60	.67
2008	1.148	11	55	.63
2007	1.193	12	50	.60
2006	1.258	13	45	.57
2005	1.316	14	40	.53
2004	1.416	15	35	.50
2003	1.465	16	31	.45
2002	1.489	17	27	.40
2001	1.498	18	24	.36
2000	1.511	19	22	.33
1999	1.538	20	21	.32
1998	1.543	21	20	.31

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:652 (April 2017), LR 44:579 (March 2018), LR 45:

Chapter 9. Oil and Gas Properties

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

A. - A.7. …

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

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	40.36	134.85	6.05	20.23
1,250-2,499 ft.	36.44	99.15	5.47	14.87
2,500-3,749 ft.	28.64	65.67	4.30	9.85
3,750-4,999 ft.	39.62	65.44	5.94	9.82
5,000-7,499 ft.	46.59	63.87	6.99	9.58
7,500-9,999 ft.	102.12	86.09	15.32	12.91
10,000-12,499 ft.	297.80	104.43	44.67	15.66
12,500-14,999 ft.	484.32	157.69	72.65	23.65
15,000-17,499 ft.	619.88	179.81	92.98	26.97
17,500-Deeper ft.	N/A	502.97	N/A	75.45

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

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	310.34	133.97	46.55	20.10
1,250-2,499 ft.	107.17	222.66	16.08	33.40
2,500-3,749 ft.	104.65	177.52	15.70	26.63
3,750-4,999 ft.	92.25	142.01	13.84	21.30
5,000-7,499 ft.	126.03	161.32	18.90	24.20
7,500-9,999 ft.	171.92	168.90	25.79	25.34
10,000-12,499 ft.	234.43	220.78	35.16	33.12
12,500-14,999 ft.	307.53	285.62	46.13	42.84
15,000-17,499 ft.	498.14	382.42	74.72	57.36
17,500-19,999 ft.	608.21	541.67	91.23	81.25
20,000-Deeper ft.	324.76	813.23	48.71	121.98

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

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,555.68	1,085.06	233.35	162.76
2,500 -3,749 ft.	799.95	833.91	119.99	125.09
3,750 -4,999 ft.	1,141.84	764.65	171.28	114.70
5,000 -7,499 ft.	568.24	708.24	85.24	106.24
7,500 -9,999 ft.	720.41	670.20	108.06	100.53
10,000 -12,499 ft.	815.57	679.34	122.34	101.90
12,500 -14,999 ft.	709.31	661.13	106.40	99.17
15,000 -17,499 ft.	488.88	685.99	73.33	102.90
17,500 - 19,999 ft.	243.52	655.82	36.53	98.37
20,000 - Deeper ft.	N/A	1,030.88	N/A	154.63

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

1. Parishes Considered to be Located in Region I

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

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

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2018	250707	Higher	97
2017	249951	250706	93
2016	249476	249950	90
2015	248832	249475	86
2014	247423	248831	82
2013	245849	247422	78
2012	244268	245848	74
2011	242592	244267	70
2010	240636	242591	65
2009	239277	240635	60
2008	236927	239276	55
2007	234780	236926	50
2006	232639	234779	45
2005	230643	232638	40
2004	229010	230642	35
2003	227742	229009	31
2002	226717	227741	27
2001	225352	226716	24
2000	223899	225351	22

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
1999	222882	223898	21
1998	Lower	222881	20 *
VAR.	900000	Higher	50

*Reflects residual or floor rate.

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

C. - C.6. …

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013). LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:653 (April 2017), LR 44:580 (March 2018), LR 45:

Chapter 11. Drilling Rigs and Related Equipment

§1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	$	$
3,000	249,100	37,400
4,000	314,100	47,100
5,000	346,600	52,000
6,000	401,500	60,200
7,000	514,800	77,200
th 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	$	$
8,000	705,900	105,900
9,000	979,800	147,000
10,000	1,329,500	199,400
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	$	$
11,000	1,738,700	260,800
12,000	2,242,500	336,400
13,000	2,726,800	409,000
14,000	3,189,300	478,400
15,000	3,595,000	539,300
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	$	$
16,000	3,910,100	586,500
17,000	4,104,400	615,700

Table 1103.A Land Rigs		
18,000	4,153,700	623,100
19,000	4,042,000	606,300
20,000	3,763,900	564,600
Depth 21,000 + Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
21,000	3,327,000	499,100
25,000 +	2,754,500	413,200

1. - 2. …

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	**Water Depth Rating**	**Fair Market Value**	**Assessment**
IC	0-199 FT.	$ 55,500,000	$ 8,325,000
	200-299 FT.	111,000,000	16,650,000
	300 FT. and Deeper	221,700,000	33,255,000
IS	0-199 FT.	16,700,000	2,505,000
	200-299 FT.	27,800,000	4,170,000
	300 FT. and Deeper	33,300,000	4,995,000
MC	0-199 FT	5,600,000	840,000
	200-299 FT.	11,100,000	1,665,000
	300 FT. and Deeper	44,400,000	6,660,000
MS	0-249 FT.	11,600,000	1,740,000
	250 FT. and Deeper	22,900,000	3,435,000

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

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	**Fair Market Value**	**Assessment**
	$	$
0- 800 FT.	50,700,000	7,605,000
801-1,800 FT.	90,900,000	13,635,000
1,801-2,500 FT.	166,600,000	24,990,000
2,501FT. and Deeper	522,700,000	78,405,000

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

1. - 3.b.i. …

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	**Mast**	**Engine**	**Fair Market Value (RCNLD)**	**Assessment**
I	71’ X 125M# 71’ X 150M# 72’ X 125M# 72’ X 150M# 75’ X 150M#	C-7 50 SERIES 6V71	105,000	15,800

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

D.1. - E.1. …

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:678 (April 2015), LR 42:748 (May 2016), LR 43:654 (April 2017), LR 44:581 (March 2018), LR 45:

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	**Cost per Mile**	**15% of Cost per Mile**
2	$ 181,440	$ 27,220
4	214,130	32,120

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
6	252,730	37,910
8	298,270	44,740
10	352,030	52,800
12	415,470	62,320
14	490,340	73,550
16	578,710	86,810
18	683,010	102,450
20	806,100	120,920
22	951,370	142,710
24	1,122,830	168,420
26	1,325,180	198,780
28	1,564,000	234,600
30	1,845,870	276,880
32	2,178,530	326,780
34	2,571,140	385,670
36	3,034,510	455,180
38	3,581,380	537,210
40	4,226,820	634,020
42	4,913,740	737,060
44	5,769,850	865,480
46	6,740,200	1,011,030
48	7,913,910	1,187,090

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	$ 1,015,050	$ 152,260
4	1,018,440	152,770
6	1,022,680	153,400
8	1,040,420	156,060
10	1,065,740	159,860
12	1,098,620	164,790
14	1,139,070	170,860
16	1,187,080	178,060
18	1,242,660	186,400
20	1,305,820	195,870
22	1,376,530	206,480
24	1,454,820	218,220
26	1,540,670	231,100
28	1,634,090	245,110
30	1,735,080	260,260
32	1,843,640	276,550
34	1,959,760	293,960
36	2,083,450	312,520
38	2,214,710	332,210
40	2,353,530	353,030
42	2,499,930	374,990
44	2,653,890	398,080
46	2,815,420	422,310
48	2,984,510	447,680

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

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

* Reflects residual or floor rate.

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

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:496 (March 2013), LR 40:537 (March 2014), LR 41:680 (April 2015), LR 42:748 (May 2016), LR 43:655 (April 2017), LR 44:582 (March 2018), LR 45:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2018	0.982	1	97	.95
2017	1.016	2	93	.94
2016	1.036	3	90	.93
2015	1.028	4	86	.88
2014	1.038	5	82	.85
2013	1.051	6	78	.82
2012	1.060	7	74	.78
2011	1.090	8	70	.76
2010	1.124	9	65	.73
2009	1.115	10	60	.67
2008	1.148	11	55	.63

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2007	1.193	12	50	.60
2006	1.258	13	45	.57
2005	1.316	14	40	.53
2004	1.416	15	35	.50
2003	1.465	16	31	.45
2002	1.489	17	27	.40
2001	1.498	18	24	.36
2000	1.511	19	22	.33
1999	1.538	20	21	.32
1998	1.543	21	20	.31

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:680 (April 2015), LR 42:749 (May 2016), LR 43:656 (April 2017), LR 44:584 (March 2018), LR 45:

Chapter 25. General Business Assets

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

A. - A.1. …

* * *

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2018 = 100*
2018	1	1667.7	0.982
2017	2	1612.2	1.016
2016	3	1580.9	1.036
2015	4	1593.7	1.028
2014	5	1578.8	1.038
2013	6	1558.7	1.051
2012	7	1545.9	1.060
2011	8	1503.2	1.090
2010	9	1457.4	1.124
2009	10	1468.6	1.115
2008	11	1427.3	1.148
2007	12	1373.3	1.193
2006	13	1302.3	1.258
2005	14	1244.5	1.316
2004	15	1157.3	1.416
2003	16	1118.6	1.465

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2018 = 100*
2002	17	1100.0	1.489
2001	18	1093.4	1.498
2000	19	1084.3	1.511
1999	20	1065.0	1.538
1998	21	1061.8	1.543
1997	22	1052.7	1.556
1996	23	1036.0	1.581
1995	24	1020.4	1.605
1994	25	985.0	1.663
1993	26	958.0	1.710
1992	27	939.8	1.743
1991	28	928.5	1.764
1990	29	910.2	1.800
1989	30	886.5	1.848
1988	31	841.4	1.947

*Reappraisal Date: January 1, 2018 – 1638.2 (Base Year)

C. …

* * *

D. Composite Multipliers 2019 (2020 Orleans Parish)

	Table 2503.D Composite Multipliers 2019 (2020 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
1	.69	.83	.85	.88	.90	.92	.93	.95	.96	.96
2	.50	.70	.74	.80	.85	.88	.91	.94	.95	.95
3	.35	.54	.59	.69	.79	.83	.88	.93	.95	.95
4	.16	.35	.42	.56	.69	.75	.81	.88	.93	.95
5		.24	.31	.45	.60	.69	.76	.85	.90	.94
6		.19	.20	.35	.51	.61	.71	.82	.88	.94
7			.19	.28	.41	.53	.66	.78	.86	.91
8				.24	.33	.47	.60	.76	.85	.90
9				.22	.27	.40	.55	.73	.84	.90
10					.23	.32	.48	.67	.79	.88
11					.23	.28	.42	.63	.78	.87
12						.26	.37	.60	.76	.86
13						.25	.33	.57	.75	.85
14							.30	.53	.74	.85
15							.30	.50	.74	.84
16							.29	.45	.70	.84
17								.40	.66	.84
18								.36	.58	.81
19								.33	.51	.77
20								.32	.46	.72
21								.31	.43	.68
22									.40	.62
23									.38	.58
24									.32	.55
25									.31	.52
26									.30	.48
27										.45
28										.41
29										.38
30										.37
31										.36

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

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:681 (April 2015), LR 42:750 (May 2016), LR 43:656 (April 2017), LR 44:584 (March 2018), LR 45:

Chapter 31. Public Exposure of Assessments; Appeals

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

A. - K. …

Form 3101
Exhibit A
Appeal to Board of Review by Property Owner/Taxpayer for Real and Personal Property

Name:_____Parish/District:_____
Taxpayer

Address:_____City, State, Zip:_____

Ward:____ Assessment/Tax Bill Number:_____Appeal No._____
Board of Review

(Attach copy of complete appeal submitted to the Board of Review)

Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

_____
_____
_____

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:

Land $_____ Improvement $_____ Personal Property* $ _____
Total $_____

I am requesting that the Fair Market Value of this property be fixed at:

Land $_____ Improvement $_____ Personal Property* $ _____
Total $_____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If property owner/taxpayer disputes the Board of Review's decision, property owner/taxpayer may appeal to the La. Tax Commission by completing and submitting Appeal Form 3103.A to the LTC within 10 business days after certified mail delivery to the appealing taxpayer or assessor of the BOR's written determination. For further information, call the LTC at (225) 219-0339.

_____
Property Owner/Taxpayer

Address:
_____
_____

Telephone No._____

Email Address:_____

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

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:539 (March 2014), LR 41:682 (April 2015), LR 42:751 (May 2016), LR 43:657 (April 2017), LR 45:

§3103. Appeals to the Louisiana Tax Commission

A. - B. …

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator, unless otherwise provided herein. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. If the total of one party's exhibits exceed 100 pages, such exhibits must be submitted to the Tax Commission in electronic/digital form along with seven (7) paper copies. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

1. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party.

D.1. - D.4. …

5. The party who has not appealed the Board of Review decision shall file and serve on the opposing party at least eight days prior to the scheduled hearing date all documents and papers that may be offered into evidence at the hearing.

D.6. - I. …

J. Any taxpayer or assessor may appear and be represented by an attorney at law authorized to practice law before the highest court of any state; a natural person may appear in his own behalf, through an immediate family member, an attorney, or Registered Tax Representative as herein defined below; or a corporation, partnership or association may appear and be represented to appear before the commission by a bona fide officer, partner, full time

employee, or any other person duly authorized as provided for on "Exhibit B, Power of Attorney" (Form 3103.B).

1. Registered Tax Representative is a person who represents another person at a proceeding before the Louisiana Tax Commission, The term does not include:

a. the owner of the property or person liable for the taxes that is the subject of the appeal;

b. an immediate family member of the owner of the property;

c. a permanent full-time employee of the owner of the property or person liable for the taxes who is the subject of the appeal;

d. representatives of local units of government appearing on behalf of the unit or as the authorized representative of another unit;

e. a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or

f. an attorney who is a member in good standing of the Louisiana bar or any person who a member in good standing of any other state bar and who has been granted leave by the board to appear pro hac vice.

2. To serve as a Registered Tax Representative, a person must:

a. be properly registered with the commission;

b. be 18 years of age;

c. have fully complied with all rules adopted by the commission regarding professional conduct and ethical considerations;

d. have read and is familiar with all rules and regulations promulgated by the commission; and

e. have a copy of a properly executed power of attorney from the taxpayer on the form prescribed by the commission on file before a hearing will be scheduled.

K. - T. …

U. The parties to an appeal shall be notified in writing, by certified mail and electronic mail, of the final decision by the commission. The taxpayer or assessor shall have 30 days from entry of the decision to appeal to a court of competent jurisdiction.

V. - Z. …

Form 3103.A
Exhibit A
Appeal to Louisiana Tax Commission
by Property Owner/Taxpayer or Assessor
for Real and Personal Property

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 219-0339

Name: _____ Parish/District: _____
Property Owner/Taxpayer/Assessor
Address: _____ City,State,Zip:_____

Ward: _____ Assessment Tax Bill No.:_____ Appeal No.:_____
(Attach copy of complete appeal submitted to the Board of Review)
Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal._____
_____
_____

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:
Land $_____ Improvement $_____
Personal Property $_____ Total $_____

The proposed Fair Market Value by the taxpayer was (at the Board of Review):
Land $_____ Improvement $_____
Personal Property $_____ Total $_____

The Fair Market Value determined by the Board of Review was:
Land $_____ Improvement $_____
Personal Property $_____ Total $_____

* If you are not appealing personal property leave this section blank.

Note: Both parties have the right to appeal the Board of Review's decision. If you disagree with the Board of Review's determination, you must file an appeal. The appeal of the decision of the Board of Review by one party is not an appeal of that decision from the other party. To protect your rights, if you disagree with the determination of the Board of Review, you should file an appeal to the Louisiana Tax Commission challenging the Board of Review's determination regardless of whether or not the other party has appealed that decision.

_____
Appellant: (Property Owner/Taxpayer/Assessor)
Address: _____
_____
_____
_____
Telephone No.: _____
Email Address: _____
Date of Appeal: _____

Form 3103.B
Exhibit B
Power of Attorney

PLEASE TYPE OR PRINT

Taxpayer(s) must sign and date this form on Page 2.

I. TAXPAYER:

Your Name or Name of Entity:_____
Street Address, City, State, ZIP: _____

I/we appoint the following representative as my/our true and lawful agent and attorney-in-fact to represent me/us before the Louisiana Tax Commission. The representative is authorized to receive and inspect confidential information concerning me/our tax matters, and to perform any and all acts that I/we can perform with respect to my/our tax matters, unless noted below. Modes of communication for requesting and receiving information may include telephone, e-mail, or fax. The authority does not include the power to receive refund checks, the power to substitute another representative, the power to add additional representatives, or the power to execute a request for disclosure of tax information to a third party.

Representatives must sign and date this form on Page 3.

II. AUTHORIZED REPRESENTATIVE:

Name:_____
Firm:_____
Street Address _____
City, State, ZIP: _____
Telephone Number:( ) _____
Fax Number:( )_____
Email Address:_____

III. SCOPE OF AUTHORIZED APPOINTMENT:

Acts Authorized. Mark only the boxes that apply. By marking the boxes, you authorize the representative to perform any and all acts on your behalf, including the authority to sign tax returns, with respect only to the indicated tax matters:

A. Duration:
_____ Tax Year _____ (Days, Months, etc.) _____ Until Revoked.

B. Agent Authority:
1.____General powers granted to represent taxpayer in all matters.

2.____Specified powers as listed.

(a.)____File notices of protest and present protests before the Louisiana Tax Commission.

(b.)____Receive confidential information filed by taxpayer.

(c.)____Negotiate and resolve disputed tax matters without further authorization.

(d.)____Represent taxpayer during appeal process.

C. Properties Authorized to Represent:

1.___All property.

2.___The following property only (give assessment number and municipal address or legal description).

_____

_____

Additional properties should be contained on separate page

NOTICES AND COMMUNICATIONS: Original notices and other written communication will be sent only to you, the taxpayer. Your representative may request and receive information by telephone, e-mail, or fax. Upon request, the representative may be provided with a copy of a notice or communication sent to you. If you want the representative to request or receive a copy of notices and communications sent to you, check this box. ☐

REVOCATION OF PRIOR POWER(S) OF ATTORNEY: Except for Power(s) of Attorney and Declaration of Representative(s) filed on this Form, the filing of this Power of Attorney automatically revokes all earlier Power(s) of Attorney on file with the Louisiana Tax Commission for the same tax matters and years or periods covered by this document.

SIGNATURE OF TAXPAYER(S): If a tax matter concerns jointly owned property, all owners must sign if joint representation is requested. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer. I certify that I have the authority to execute this form on behalf of the taxpayer.

IF THIS POWER OF ATTORNEY IS NOT SIGNED AND DATED, IT WILL BE RETURNED.

_____

Signature

_____

Date (mm/dd/yyyy)

_____

Spouse/Other Owner Signature

_____

Date (mm/dd/yyyy)

_____

Signature of Duly Authorized Representative, if the taxpayer title is a corporation, partnership, executor, or administrator

_____

Date (mm/dd/yyyy)

IV. DECLARATION OF REPRESENTATIVE:

Under penalties of perjury, I declare that:

I am authorized to represent the taxpayer identified above and to represent that taxpayer as set forth in Part III specified herein;

I have read and am familiar with all the rules and regulations promulgated by the commission;

I have fully complied with all rules adopted by the commission regarding professional conduct and ethical considerations.

_____

Signature

_____

Date (mm/dd/yyyy)

IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 41:682 (April 2015), LR 42:752 (May 2016), LR 43:658 (April 2017).

§3105. Practice and Procedure for Public Service Properties Hearings

A. - S. …

Form 3105.A
Exhibit A
Appeal to Louisiana Tax Commission by Taxpayer For Public Service Property

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 219-0339

Taxpayer Name:
Address:
City, State, Zip:
Circle one Industry:
Airline Boat/Barge Co-op Electric Pipeline Railcar Railroad Telephone
The Fair Market Value as determined by the Public Service Section of the Louisiana Tax Commission is:
Total $ _____
I am requesting that the Fair Market Value be fixed at:
Total $ _____
I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

_____

Appellant:
Address:_____
_____
_____
_____
Telephone No. :_____
Email Address: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:689 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:661 (April 2017), LR 45:

§3106. Practice and Procedure for the Appeal of Bank Assessments

A. - T. …

Form 3106.A **Appeal to Louisiana Tax Commission** **by Taxpayer** **for Bank Stock Assessments**	LA Tax Commission P.O. Box 66788 Baton Rouge, LA 70896 (225) 219-0339

Name:_____ Parish/District:_____
Taxpayer
Address:_____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed
_____
_____
The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:$_____
I am requesting that the Fair Market Value be fixed at:$_____

_____
Appellant:
Address: _____
_____
_____
_____
Telephone No.: _____
Date: _____
Email Address: _____

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:661 (April 2017), LR 45:

§3107. Practice and Procedure for Appeal of Insurance Credit Assessments

A. - T. …

Form 3107.A **Appeal To Louisiana Tax Commission** **by Taxpayer** **for Insurance Assessments**	LA Tax Commission P.O. Box 66788 Baton Rouge, LA 70896 (225) 219-0339

Name: _____ Parish/District:_____
Taxpayer
Address: _____ City, State, Zip:_____
Address or Legal Description of Property Being Appealed_____
The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:$_____
I am requesting that the Fair Market Value be fixed at: $_____

_____
Appellant:
Address: _____
_____
_____
_____
Telephone No.: _____
Date: _____
Email Address: _____

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), amended LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:661 (April 2017), LR 45:

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is hereby authorized on an interim basis for the period beginning on July 1, 2018, and ending on June 30, 2022, to levy and collect the following fees in connection with services performed by the commission.

1. A fee for the assessment of public service properties, at the rate of four hundredths of one percent of the assessed value of such properties, to be paid by each public service property which pays ad valorem taxes.

2. A fee for the assessment of insurance companies, at the rate of three hundredths of one percent of the assessed value of such properties, to be paid by each insurance company which pays ad valorem taxes.

3. A fee for the assessment of financial institutions, at the rate of three hundredths of one percent of the assessed value of such properties, to be paid by each bank stock and loan and finance company which pays ad valorem taxes.

B. - D.1. …

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 41:683 (April 2015), LR 43:662 (April 2017), LR 44:585 (March 2018), LR 45:

Lawrence E. Chehardy
Chairman

1812#017

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2018-2019 King Mackerel Commercial Season Closure

The commercial king mackerel season in Louisiana waters was previously closed on October 5, 2018. At its November 2018 meeting, the Wildlife and Fisheries Commission authorized the secretary of the Department of Wildlife and Fisheries to modify the commercial king mackerel season should he be notified of a reopening in adjacent federal waters by NOAA Fisheries. The commercial season was subsequently reopened 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 November 2018 meeting and in LAC 76:VII.327.E.6 to close the 2018-2019 commercial king mackerel season in Louisiana state waters when he is informed by NOAA

Fisheries that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the secretary hereby declares:

Effective 12:01 a.m., December 5, 2018, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2019. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fisherman. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel within or without Louisiana waters. Effective with this closure, no person shall possess king mackerel in excess of a daily bag limit within or without Louisiana waters. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were legally harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by NOAA Fisheries that the commercial king mackerel quota for the western Gulf of Mexico has been projected to be reached. Compatible season regulations in State waters are preferable to provide effective rules and efficient enforcement for the fishery and avoid quota overruns.

Jack Montoucet
Secretary

1812#011

Rules

RULE

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
and
Advisory Commission on Pesticides

Pesticides (LAC 7:XXIII.709, 711, 715, and 2101)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and under the authority of R.S. 3:3203, 3:3242, 3:3244, and 3:3249, the Department of Agriculture and Forestry ("department") and the Advisory Commission on Pesticides has amended LAC 7:XXIII.709, 711, 715, and 2101 as follows. The amendment to §709 removes the office of the county agent as a testing location for private applicators of pesticides. Testing at these locations has been discontinued and no longer needs to be included in the Rule. The amendments to §711 removes Subcategory 5b, marine paints containing TBT, because TBT is no longer allowed in the United States. The amendments to §715.D provides for the administration of the agricultural examination at district offices in addition to the Baton Rouge division. The amendment to §715.E.2.a.vii adds "mosquito control entomology" as a category of agricultural consultants, which was previously included in this regulation, but inadvertently omitted from the Rule in prior revisions. The amendment to §2101 adds private applicators to those required to keep records of pesticide applications as stated in the Section. This Rule is hereby adopted on the day of promulgation.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticides

Chapter 7. Examinations, Certification and Licensing
Subchapter B. Certification

§709. Certification of Private Applicators.

A. …

B. Examinations for certification for private applicators of pesticides will be given during office hours upon request of the applicant, in Baton Rouge, at the division, at any district office of the department, or at any location approved by the director.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 44:2126 (December 2018).

§711. Certification of Commercial Applicators.

A. - B.2.e.i. ...

ii. Subcategory 5b includes commercial applicators using, or supervising the use of, any restricted used in paints to be applied to vessel hulls and other marine structures to inhibit the growth of aquatic organisms such as barnacles and algae.

B.2.f. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006), repromulgated LR 32:1011 (June 2006), amended LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 44:2126 (December 2018).

§715. Certification of Agricultural Consultants

A. - C. ...

D. Each application for an agricultural consultant's examination shall be approved by the commission before an examination is administered. Examinations for agricultural consultants shall be administered only in Baton Rouge at the division or at any district office of the department, during office hours and shall be administered only after payment of the proper fee.

E. - E.2.a.vi. …

vii. Mosquito Control Entomology. Making recommendations for the control of mosquito species.

E.2.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:184 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides LR 28:39 (January 2002), LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3474 (December 2011), LR 44:2126 (December 2018).

Chapter 21. Record Keeping Requirements

§2101. Owner-Operators, Non-Fee Commercial Applicators, Private Applicators and Commercial Applicators

A. Any person applying pesticides for a fee, private applicators described in §709, and commercial applicators described in §711, with the single exception of applicators listed in §711.B.2.g Category 7, shall accurately maintain, for a period of two years, records of pesticide applications on a record keeping form or record keeping format approved by the director. Records described herein must be maintained, within three days of the application, at the physical address of the employer or the physical address on the owner/operator license. A copy of

these records shall be provided to any employee of department upon request at a reasonable time during normal working hours. The following information shall be included on that form:

1. owner/operator name, address, and license number;
2. certified applicator, name, address, and certification number;
3. customer name and address;
4. product/brand name;
5. EPA registration number;
6. restricted/general use pesticide;
7. application date;
8. crop/type of application;
9. location of application;
10. size of area treated (acres, square feet, or minutes of spraying);
11. rate of application;
12. total amount of product (concentrate) applied;
13. applicator;
14. certification number of applicator (if applicable).

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:929 (September 1995), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3484 (December 2011), LR 44:2126 (December 2018).

Mike Strain, DVM
Commissioner

1812#069

RULE

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission

Horticulture Examinations
(LAC 7:XXIX.111 and 113)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and under the authority of R.S. 3:3801 and 3:3807, the Department of Agriculture and Forestry (department) and the Horticulture Commission amends LAC 7:XXIX.111 and 113 to provide the length of time that a passing score on a licensure examination is valid and to strike and reinsert existing regulations for clarity. This Rule is hereby adopted on the day of promulgation.

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticulture Commission
Chapter 1. Horticulture
§111. Minimum Examination Performance Levels Required

A. ...

B. An applicant who fails to complete or pass an examination for licensure must wait at least two weeks before reapplying to take the examination.

C. A passing score on an examination is valid for five years, after which time the applicant must apply to retake the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:153 (February 1994), LR 35:1229 (July 2009), LR 37:3464 (December 2011), LR 40:759 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:2127 (December 2018).

§113. Examination Schedule

A. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3465 (December 2011), LR 40:759 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:2127 (December 2018).

Mike Strain, DVM
Commissioner

1812#068

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:XI.5701, 6803 and 6813)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*. The policy revisions clarify policy regarding assessments and results and outline performance level cut scores for the LEAP 2025 United States History End of Course assessment. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION
Part XI. Accountability/Testing
Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices
Chapter 57. Assessment Program Overview
§5701. Overview of Assessment Programs in Louisiana [Formerly LAC 28:CXI.701]

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	fall 1987-

Name of Assessment Program	Assessment Population	Administered
Norm-Referenced Tests (NRTs)		
California Achievement Test (CAT/F)	grades 4, 6, and 9	spring 1988- spring 1992 (no longer administered)
California Achievement Test (CAT/5)	grades 4 and 6 grade 8	spring 1993- spring 1997 spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	grades 4, 6, 8, 9, 10, and 11	spring 1998 (no longer administered)
ITBS ITED (form M)	grades 3, 5, 6, and 7 grade 9	spring 1999- spring 2002 (no longer administered)
ITBS ITED (form B)	grades 3, 5, 6, and 7 grade 9	spring 2003- spring 2005 (no longer administered)
ITBS	grade 2	spring 2012-spring 2013 (no longer administered)
Criterion-Referenced Tests (CRTs)		
National Assessment of Educational Progress (NAEP)	grades 4, 8, and 12	spring 1990-
Louisiana Educational Assessment Program (LEAP)	grades 3, 5, and 7	spring 1989- spring 1998 (no longer administered)
Graduation Exit Examination ("old" GEE)	grades 10 and 11	spring 1989- spring 2003 (state administered) fall 2003- (district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	grades 4 and 8	spring 1999-2014
LEAP (Science and Social Studies)	grades 4 and 8	spring 2000–2016 Social Studies spring 2000- Science
LEAP 2025 (ELA, Mathematics)	grades 3-8	Spring 2015-
LEAP 2025 (Science)		Spring 2019 -
LEAP 2025 (Social Studies)	grades 3-8	Spring 2017-
Graduation Exit Examination (GEE) (ELA and Mathematics)	grade 10	spring 2001-fall 2014 (district administered)
GEE (Science and Social Studies)	grade 11	spring 2002-fall 2014 (district administered)
End-Of-Course Tests (EOCT)	Algebra I	fall 2007-summer 2017
EOCT	English II	fall 2008- summer 2017
EOCT	Geometry	fall 2009 -summer 2017
EOCT	Biology	fall 2010-spring 2018 (continued for graduating senior and retesters in 2018-2019 only)
EOCT	Applied Algebra I form	spring 2011- summer 2013
EOCT	English III	fall 2011- summer 2017 (available for students who have entered a high school cohort prior to 2017-2018 school year)
EOCT	U. S. History	fall 2012-2017 (continued for graduating seniors and retesters in 2017-2018 only)
EXPLORE	grades 8 and 9	spring 2013-2015
PLAN	grade 10	spring 2013-2015
ACT	grade 11	spring 2013-
LEAP 2025	English I English II US History Geometry Algebra I	fall 2017-
LEAP 2025	Biology	Fall 2018-
Integrated NRT/CRT		
Integrated Louisiana Educational Assessment Program (iLEAP) (science and social studies)	grades 3, 5, 7	spring 2006-2017
*i*LEAP (ELA and math)	Grades 3, 5, 7, and 9	spring 2006-2014 (grades 3, 5, 7) spring 2006-2010 (grade 9)
Special Population Assessments		
LEAP Connect	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11	ELA and Math Grades 3 to 8:. Spring 2018- ELA and Math Grade 11:. Spring 2019 -
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11	spring 2000-2007
LAA 1	ELA and Mathematics (grade spans 3-4; 5-6; 7-8; 9-10); Science (grades 4, 8, and 11)	Revised spring 2008-2017 (ELA and Math) (available for high school students who need to participate in 2017-2018 only) Spring 2008-present (Science)
LAA 1 ELA and Mathematics	grade 9	spring 2010-Spring 2010 (last administration of grade 9 LAA 1)
Louisiana Alternate Assessment, Level 2 (LAA 2) ELA and Mathematics (Grades 4 and 8)	grades 4, and 8	spring 2006-spring 2014 (no longer administered)
LAA 2 ELA and Mathematics (Grade 10) Science and Social Studies (Grade 11)	grades 10 and 11	spring 2006- (available for students who have entered a high school cohort in 13-14 or prior)
LAA 2 ELA and Mathematics	grades 5, 6, and 7	spring 2007-spring 2014 (no longer administered)

Name of Assessment Program	Assessment Population	Administered
LAA 2 ELA and Mathematics	grade 9	spring 2010 (last state administration of grade 9 LAA 2)
LAA 2 Science and Social Studies	grades 4 and 8	spring 2008–spring 2014 (no longer administered)
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3-11.	spring 1999–spring 2003 (no longer administered)
English Language Proficiency Test (ELPT)	Limited English Proficient (LEP) students in grades K-12	Spring 2018-
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K-12	spring 2005-2017
Academic Skills Assessment (ASA) and ASA LAA 2 form	Students pursuing a State-Approved Skills Certificate (SASC) or GED	spring 2012 (one administration only, spring 2012)

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), LR 38:34 (January 2012), LR 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:1319 (July 2014), LR 40:2512 (December 2014), LR 44:465 (March 2018), LR 44:2127 (December 2018).

Chapter 68. LEAP 2025 Assessments for High School

Subchapter A. General Provisions

§6803. Introduction

[Formerly LAC 28:CXI.1803]

A. - B.5. …

6. U.S. history.

NOTE: The biology 4-level end-of-course test will continue to be utilized through spring 2018; beginning in the 2018-2019 school year, student knowledge and skills of state academic standards in biology will be measured by the LEAP 2025 Biology assessment for students who are taking the course and are not graduating in 2018-2019; like US History in 2017-2018, students who are retesting and are not repeating the course, and students graduating in 2018-2019 will be allowed to complete the four-level Biology EOC for one more year. The English III end-of-course exam will continue to be available for students who entered a high school cohort in 2016-2017 or prior.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:214 (February 2009), LR 36:477 (March 2010), amended LR 38:35 (January 2012), LR 40:2514 (December 2014), LR 44:469 (March 2018), LR 44:2129 (December 2018).

§6813. Performance Standards

[Formerly LAC 28:CXI.1813]

A. - B.5. …

6. U.S. History

U.S. History	
Achievement Level	**Scaled-Score Ranges**
Advanced	774-850
Mastery	750-773
Basic	725-749
Approaching Basic	711-724
Unsatisfactory	650-710

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:215 (February 2009), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:35 (January 2012), LR 39:76 (January 2013), LR 39:2444 (September 2013), LR 44:470 (March 2018), LR 44:2129 (December 2018).

Shan N. Davis
Executive Director

1812#033

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—Testing and Accountability (LAC 28:XI.5105)

In accordance with R.S. 17:6 and 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended to *Bulletin 118—Statewide Assessment Standards and Practices*. The amendments align policy with Act 517 of the 2018 Regular Legislative Session, which requires the department to provide assessment results for each student who is administered the standards-based assessments in English language arts and mathematics to each public school governing authority no later than June 30 of each year. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 51. General Provisions

§5105. Testing and Accountability

[Formerly LAC 28:CXI.105]

A. Every school shall participate in a school accountability system based on student achievement as approved by BESE.

B. All LEAs must administer all assessments according to the testing schedule dates approved by BESE.

C. The state Department of Education shall provide the assessment results for each student who is administered the standards-based assessment in English language arts and mathematics to each public school governing authority no later than June 30 of each year, with an exception given for any year in which a new assessment or significant adjustments to an existing assessment are required in order to align content standards or due to actions taken by BESE, the Division of Administration, or the legislature. The results shall contain, but shall not be limited to, the following:

1. the scale score achieved by the student;

2. the raw score achieved by the student;

3. student performance on categories and subcategories within a given subject; and

4. longitudinal information, if available, on the student's progress in each subject area based on previous statewide standards-based assessment data.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 33:255 (February 2007), LR 44:462 (March 2018), LR 44:2129 (December 2018).

Shan N. Davis
Executive Director

1812#032

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Economically Disadvantaged (LAC 28:CXXXIX.105, 515, 1101, 2101, 2711 and 3705)

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 amended *Bulletin 1706—Regulations for the Implementation of the Children with Exceptionalities Act*. The amendments update terminology to refer to students as "economically disadvantaged" instead of "at-risk" in order to align the rules in the *Louisiana Administrative Code* with Act 307 of the 2018 Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§105. Purpose of Charter Schools

A. - B. …

C. The charter school law expresses the intention of the legislature that the best interests of economically-disadvantaged pupils shall be the overriding consideration in implementing the provisions of the law.

D. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3972, and 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 40:1322 (July 2014), LR 44:2130 (December 2018).

Chapter 5. Application and Approval Process for BESE-Authorized Charter Schools

§515. Application Components for BESE-Authorized Charter Schools

A. - D.12. …

13. a description of the school's instructional design, including the type of learning environment (such as classroom-based or independent study), class size and structure, curriculum overview, and teaching methods, and how that program will meet the needs of the economically-disadvantaged students to be served;

D.14. - H.11. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:38 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 38:3118 (December 2012), LR 39:1432 (June 2013), LR 43:2477 (December 2017), LR 44:233 (February 2018), LR 44:2130 (December 2018).

Chapter 11. Ongoing Review of Charter Schools

§1101. Evaluation for BESE-Authorized Charter Schools

A. - H.7.…

I. Organizational Performance

1. BESE shall evaluate a charter school's organizational performance based on the Department of Education's oversight and monitoring of the charter school's compliance with and performance of statutory, regulatory, reporting, and contractual obligations, including R.S. 17:3972, which provides that the best interests of economically-disadvantaged pupils shall be the overriding consideration in implementing the provisions of charter law.

2. BESE's organizational performance evaluation of each charter school shall be based on, but not limited to data and information in the following areas:

a. special education and ELL program;
b. student enrollment;
c. student discipline;
d. health and safety
e. governance; and
f. facilities.

3. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:871 (March 2011), repromulgated LR 37:1124 (April 2011), amended LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1433 (June 2013), LR 39:3065 (November 2013), amended LR 40:1322 (July 2014), LR 44:235 (February 2018), LR 44:2130 (December 2018).

Chapter 21. Charter School Governance

§2101. Board of Director Composition

A. - C. …

D. Beginning October 1, 2018, the membership of the governing or management board of each charter school located in a parish with a population between 325,000 and 375,000 persons, based on the most recent federal decennial census, shall include at least one member who is a parent, legal guardian, or grandparent of a student enrolled in the charter school or an alumnus of the school, who may be appointed or elected.

E. Beginning with the 2019-2020 school year, at least 60 percent of the governing or management board of each charter school, other than a type 2 charter school, located in a parish with a population of between 325,000 and 375,000 persons census, shall be residents of the parish in which the charter school is located.

F. Board of Director Composition for BESE-Authorized Charter Schools

1. The board of directors of each charter operator shall consist of no fewer than seven members. Should a board have fewer than seven members due to the resignation or other loss of one or more board members, the board shall have 90 calendar days after such loss to appoint one or more replacements.

2. The board of directors of each charter operator should consist of members with a diverse set of professional skills and practical work experience in the areas of education, public/non-profit and/or for-profit administration or operations, community development, finance, and law.

3. The board of directors of each charter operator should be representative of the community in which the charter school is located and no fewer than 60 percent of its members shall reside in the community in which the charter school is located. *Community*, for the purposes of this Paragraph, shall consist of the parish in which the school is located and immediate neighboring parishes and, for type 2 charter schools, any parish that is included in the charter school's attendance zone. No fewer than 60 percent of the members of the board of directors of any charter operator that operates multiple schools in different communities shall reside in the communities in which the charter schools are located, with equal representation from each community to the greatest extent possible.

4. The board of directors of each charter operator shall consist of no more than one person from the same immediate family, as defined by the *Code of Governmental Ethics*.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008), amended LR 37:873 (March 2011), LR 37:1377 (May 2011), LR 44:240 (February 2018), LR 44:2130 (December 2018).

Chapter 27. Charter School Recruitment and Enrollment

§2711. Enrollment Preferences for BESE-Authorized Charter Schools

A. …

B. Students previously enrolled in the charter school shall be given preference over all other applicants, and shall maintain enrollment or be automatically admitted following the charter school's application period. Students attending a pre-kindergarten or early childhood program operated by a charter school may be considered to have been previously enrolled at the charter school for the purpose of this Subsection. Requests by charter schools to give preference for students who attend a publicly-funded program at no cost to the student shall be automatically approved by the department for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. For a charter school that requests to apply this preference for students who were admitted to a pre-kindergarten or early childhood program that utilizes admission requirements and/or charges tuition for some or all of its students, the use of the preference shall be subject to the approval of the department for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. In such a case, the department or the charter school's authorizer, as applicable, shall require the charter school to set enrollment targets that ensure the charter school provides equity of access for economically disadvantaged applicants to its kindergarten classes.

C. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:1022 (April 2013), LR 44:243 (February 2018), LR 44:2131 (December 2018).

Chapter 37. Virtual Charter Schools

§3705. Technical Requirements for Virtual Charter Schools

A. The following technical specifications are required for all virtual charter schools:

1. - 2. …

3. provide each full-time student enrolled in the program who qualifies for free or reduced-price school lunches under the National School Lunch Act, is considered economically disadvantaged for the purpose of calculating funding through the Minimum Foundation Program, or does not have a computer or internet access in his or her home with:

3.a. - 7.…

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:39 (January 2012), amended LR 44:2131 (December 2018).

Shan N. Davis
Executive Director

1812#034

RULE

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
Student Placement (LAC 28:XXXIX.503)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1566—Pupil Progression Policies and Procedures*. The revisions provide relative to student placement in first grade and regarding the transfer of students from out-of-state schools, non-public schools, and home study programs. The revisions outline prerequisites to enrollment in first grade, and requirements for students transferring into public schools seeking to enroll in fifth and ninth grade. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION
Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 5. Placement Policies—General Requirements

§503. Regular Placement

A. - A.1.e. …

2. Every child, as a prerequisite to enrollment in any first grade of a public school, shall have attended at least a full-day public or non-public kindergarten for a full school year, or shall have satisfactorily passed an academic readiness screening administered by the school system prior

to the time of enrollment for the first grade. Each school system shall establish the academic readiness level for its first grade based on criteria established by the system. Any child not able to meet kindergarten attendance requirements due to illness or extraordinary, extenuating circumstances as determined by the school governing authority, shall be required to satisfactorily pass an academic readiness screening administered by the school system prior to the time of enrollment for the first grade. In accordance with R.S. 17:221, any child below the age of seven who legally enrolls in school shall be subject to state laws regarding compulsory attendance and promotion requirements set forth by the school system in accordance with this bulletin.

B. - D.2.a. …

E. Transfer Students

1. The local school board shall establish written policies for the placement of students transferring from all other systems and home schooling programs (public, nonpublic, both in and out-of-state, and foreign countries).

a. Students in grades 5 and 9 transferring to a public school from any in-state nonpublic school (state-approved and not seeking state approval), any approved home study program, or Louisiana resident transferring from any out-of-state school, shall be administered the English language arts and mathematics portions of the LEAP placement test. Students who have scored below the "basic" achievement level shall have placement and individual academic supports addressed in the same manner as non-transfer students in accordance with §701 and §703.

b. Any child transferring into the first grade of a public school from out of state and not meeting the requirements for kindergarten attendance shall be required to pass an academic readiness screening administered by the school system prior to the time of enrollment for the first grade, in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:765 (April 2014), LR 40:1332 (July 2014), LR 40:2533 (December 2014), LR 41:1271 (July 2015), LR 44:480 (March 2018), LR 44:1003 (June 2018), LR 44:2131 (December 2018).

Shan N. Davis
Executive Director

1812#031

RULE

Board of Elementary and Secondary Education

Teaching Authorizations (LAC 28:LXXIX.123 and 125; CXV.501 and 504; CXXXI.311 and Chapter 9; CXXXIX.2107, 2903, and 2905; and CLXXI.101 and 103)

In accordance with R.S. 17:6 and 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*; *Bulletin 741—Louisiana Handbook for School Administrators*; *Bulletin 746—Louisiana Standards for State Certification of Personnel*; *Bulletin 126—Charter Schools*; and *Bulletin 745—Louisiana Teaching Authorizations of School Personnel*. The revisions align state policy with Act 634 of the 2018 Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Chapter 1. Operation and Administration
§123. Personnel

A. - A.2. …

3. The request must include the person's fingerprints in a form acceptable to the bureau.

a. Repealed.

B. - F.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:15, 17:22(6), 17:391.1-391.10, 17:411, and 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3074 (December 2005), LR 39:1439 (June 2013), LR 44:2132 (December 2018).

§125. Teaching Authorization

A. This Section provides for the rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization to a person seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school, that does not require a Louisiana teaching certificate for the employment of a teacher.

B. Teaching authorizations shall be issued in accordance with LAC 28:CLXXI, Bulletin 745.

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 44:2132 (December 2018).

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 5. Personnel
§501. Criminal Background Checks

A. - A.3. …

4. Repealed.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:15, and 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:443 (March 2009), amended LR 35:1473 (August 2009), LR 39:2200 (August 2013), LR 44:2132 (December 2018).

§504. Teaching Authorization

A. This Section provides for the rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization to a person seeking employment as an administrator, teacher, or

substitute teacher in any school, including a public or nonpublic school that does not require a Louisiana teaching certificate for the employment of a teacher.

B. Teaching authorizations shall be issued in accordance with LAC 28:CLXXI, Bulletin 745.

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 44:2132 (December 2018).

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 3. Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations

Editor's Note: The name of the Division of Student Standards and Assessments has been changed to The Division of Student Standards, Assessments, and Accountability.

§311. World Language Certificate (WLC) PK-12

A. - E. …

F. A foreign language teacher in a certified foreign language immersion program who cannot be certified or issued an authorization to teach through the board's Foreign Associate Teacher Program may be allowed to teach without passing the required examination, provided the teacher has at least a baccalaureate degree and complies with state laws relative to background checks and review of criminal history.

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 32:1800 (October 2006), amended LR 33:1618 (August 2007), LR 34:233 (February 2008), LR 35:642 (April 2009), LR 36:486 (March 2010), LR 38:1952 (August 2012), LR 40:280 (February 2014), LR 43:1307 (July 2017), LR 44:745 (April 2018), LR 44:2133 (December 2018).

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

§903. Definitions

A. - B.1. …

2. those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and those under the federal criminal code having analogous elements of criminal and moral turpitude. (Federal criminal code provisions are in title 18 of U.S.C.A.) Specifically:

Crimes Reported under R.S. 15:587.1	
* * *	
*R.S. 14:81.4	Prohibited sexual conduct between educator and student
*R.S. 14:82	Prostitution
*R.S. 14:82.1	Prostitution; Persons under seventeen; Additional offenses
* * *	
R.S. 14:89.2	Crime against nature by solicitation
*R.S. 14:92	Contributing to the delinquency of juveniles
*R.S. 14:93	Cruelty to juveniles
* * *	
*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 44:2133 (December 2018).

§905. Denial of Initial or Renewal Certificates

A. An application for a Louisiana teaching certificate or an application for the renewal of an expired Louisiana teaching certificate shall be denied if the department determines that the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever or has submitted fraudulent documentation, or has participated in cheating. A person convicted of an offense as defined herein or has submitted fraudulent documentation, or has participated in cheating may apply for a certificate if the following conditions apply:

1. five years have elapsed from date of entry of final conviction, the date of entry of his plea of nolo contender, or from the date of receipt of notification from the board of its determination that the person submitted fraudulent documentation or facilitated cheating on a state assessment;

2. the board has received a request from the person for a formal appeal and has conducted a review of the person's background and the person has provided letters of recommendation to the board.

B. - 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 32:1830 (October 2006), amended LR 44:266 (February 2018), LR 44:2133 (December 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. 14:283, 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, 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14.92, 14:93, 14:93.3, 14:93.5, 14:106, 14:283, and 14:286.

B. - E.7. …

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 44:2133 (December 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. 14.283, 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, 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14:92, 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 five 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 of this Part which resulted in certification suspension, and/or revocation.

C. - E.7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), R.S. 17:391.1-391.10, and 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 44:2133 (December 2018).

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 21. Charter School Governance

§2107. Prohibitions

A. - I. …

J. A charter school shall not hire anyone:

1. as an administrator, teacher, substitute teacher, bus operator, substitute bus operator, janitor, or other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) unless approved in writing by a district judge of the parish and the district attorney. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer;

2. as an administrator, teacher, or substitute teacher if any of the following apply to anyone who has been:

a. convicted or has pled nolo contendere to any other felony offense even if adjudication was withheld or a pardon or expungement was granted;

b. found to have submitted fraudulent documentation to the board or department as part of an application for a Louisiana teaching certificate or other teaching authorization; or

c. found to have facilitated cheating on any state assessment as determined by the board.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 44:241 (February 2018), LR 44:2134 (December 2018).

Chapter 29. Charter School Staff

§2903. Teaching Authorizations

A. This Section provides for the rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization to anyone seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school that does not require a Louisiana teaching certificate for the employment of a teacher.

B. Teaching authorizations shall be issued in accordance with LAC 28:CLXXI, Bulletin 745.

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 44:2134 (December 2018).

§2905. Criminal History Review

A. - A.2. …

3. Repealed.

B. - D.1. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:3068 (November 2013), LR 44:245 (February 2018), LR 44:2134 (December 2018).

Part CLXXI. Bulletin 745—Louisiana Teaching Authorizations of School Personnel

Chapter 1. Teaching Authorizations

§101. Introduction

A. This Chapter provides for rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization to anyone seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school that does not require a Louisiana teaching certificate for the employment of a teacher.

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 44:2134 (December 2018).

§103. Teaching Authorizations

A. In accordance with Act 634 of the 2018 Regular Legislative Session, a teaching authorization (TA) shall be required for individuals seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school that does not require a Louisiana teaching certificate for the employment of a teacher.

B. A TA shall be denied to anyone who has:

1. submitted fraudulent documentation to the board or the state Department of Education;

2. facilitated cheating on any state assessment administered to students; and

3. been convicted of or pled nolo contendere to a felony offense.

C. Eligibility Guideline

1. The applicant is seeking employment in a Louisiana public or nonpublic school in a role in which a Louisiana teaching certificate is not required.

D. A request for a TA must be submitted directly to the LDE by the employing school governing authority where the individual is seeking employment.

E. A TA is valid only for the period during which the individual is employed by the employing school governing authority making the initial TA request.

F. An individual seeking to change employing school systems must be issued a new TA.

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 44:2134 (December 2018).

§105. Suspension and Revocation of Teaching Authorizations for Criminal Offenses

A. A Louisiana teaching authorization shall be suspended and revoked if the individual holding the teaching authorization has been convicted of any felony offense whatsoever. If the Louisiana teaching authorization of an individual is expired, and the individual has been convicted of a felony offense, this information shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. When the department is notified that any teacher has been convicted of a specific crime:

1. departmental staff shall attempt to contact the educator to inform him/her that the department has information regarding a criminal conviction and is proceeding under this policy to suspend the teaching authorization;

2. the teacher shall have 10 days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence;

3. if the teacher cannot be reached or if his/her employment status cannot be determined, suspension of the authorization shall proceed, as will all other steps in the process outlined in this policy;

4. if the department determines that there is evidence that an educator has been convicted of a criminal offense, the teaching authorization issued to that educator shall be suspended. The board, the educator, and the employing school system shall be notified that the teaching authorization has been suspended pending official board action per revocation proceedings;

5. the educator shall be notified by any appropriate means of notice that his/her teaching authorization has been suspended and that the teaching authorization will be revoked unless documentation is provided verifying that he/she was not convicted of the crime. The educator shall provide copies of any documentation that verifies his/her identity and refutes the existence of a criminal conviction;

6. if the conviction upon which a teaching authorization has been suspended or revoked is reversed, such action shall be communicated to the board through documentation provided by the applicant. The board may receive such information and order reinstatement of the teaching authorization;

7. upon official action by the board, any educator whose teaching authorization has been revoked shall be notified of such action. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for reinstatement of his/her teaching authorization.

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 44:2135 (December 2018).

§107. Suspension and Revocation of Teaching Authorizations Due to Participation in Cheating

A. A Louisiana teaching authorization shall be suspended and revoked if the individual holding the teaching authorization has been found by the LDE to have participated in cheating, as defined in LAC 28:CXXXI.903. If the Louisiana teaching authorization of an individual has expired, and the individual has been found to have participated in cheating, this information shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. When the department has determined that any teacher or administrator has been found to have participated in cheating, the following process shall take place.

1. Departmental staff shall attempt to contact the teacher or administrator with notification that the department has information regarding his/her participation in cheating and is proceeding under this policy to suspend the teaching authorization.

2. The teacher or administrator shall have 10 working days from the date of notification to provide verification that he/she has not been found to have participated in cheating. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

3. If the teacher or administrator cannot be reached, suspension of the teaching authorization shall proceed, as will all other steps in the process outlined in this policy.

4. If the department determines that a teacher or administrator was found to have participated in cheating, the teaching authorization shall be suspended. The board, the educator, and the employing school system shall be notified that the teaching authorization has been suspended pending official board action per revocation proceedings.

5. The educator or administrator shall be notified by any appropriate means that his/her teaching authorization has been suspended and that the authorization will be revoked unless documentation is provided verifying that he/she was not found to have participated in cheating.

6. If the department subsequently determines that the teacher or administrator did not participate in cheating, such action shall be communicated to the department and/or the board through documentation provided by the department. The board may receive such information and may order reinstatement of the teaching authorization.

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 44:2135 (December 2018).

§109. Suspension and Revocation of Teaching Authorizations due to Fraudulent Documentation

A. A Louisiana teaching authorization shall be suspended or revoked if an educator presents fraudulent documentation pertaining to his/her teaching authorization to the board or the LDE. If the Louisiana teaching authorization of an individual is expired, and the individual has submitted fraudulent documents pertaining to authorization, this information shall be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. The department shall conduct an investigation prior to determining that an educator has submitted fraudulent documentation pertaining to his/her teaching authorization. Upon confirmation of the information investigated, the department shall notify the educator that his/her teaching authorization has been suspended pending official board action per revocation proceedings.

C. Such records review shall be limited to the issue of whether or not the document submitted was fraudulent. The educator shall provide the board with any documentation that will refute the fraudulent nature of the document.

D. 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 authorization should be revoked. The decision of the board shall be transmitted to the local school board and to the affected educator.

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 44:2136 (December 2018).

§111. Reinstatement of Teaching Authorizations

A. Reinstatement will never be considered for an educator who has 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, 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14:92, 14:93, 14:93.3, 14:93.5, 14:106, 14.283, and 14:286.

B. Reinstatements of teaching authorization shall not be considered until at least five years have elapsed from the date of entry of final conviction, submission of fraudulent documentation, or the date of investigation results regarding the participation in cheating, which resulted in teacher authorization suspension, revocation, or denial.

C. An applicant may apply to the board for reinstatement of his/her Louisiana teaching authorization 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, or investigations regarding participation in cheating.

2. In criminal cases, there has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide:

a. relevant documentation; and

b. a current state and FBI criminal history background check from state police that is clean and clear and evidence that there has been successful completion and relevant documentation of all conditions/requirements of any parole and probation.

D. Applicant Responsibilities

1. Contact the office of the Board of Elementary and Secondary Education and request a records review for reinstatement of the authorization.

2. Provide each applicable item identified in Subsection C of this Section, evidence that all requirements for teaching authorization have been successfully completed, and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials, or from other community leaders.

E. State Board Responsibilities

1. The board will consider the request for reinstatement and documentation provided. The board is not required to conduct a reinstatement records review and may summarily deny a request for issuance/reinstatement.

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

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 authorization.

4. In accordance with R.S. 42:17, 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; 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 authorization 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), 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 44:2136 (December 2018).

Shan N. Davis
Executive Director

1812#035

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division

Radiation Protection
(LAC 33:XV.102, Chapter 3, 499, 763, 1519, and Chapter 16)(RP062ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.102, 328, 342, 390, 499, 763, 1519, 1613, 1615, and 1637 (Log #RP062ft).

This Rule is identical to federal regulations found in 10 CFR 19, 20, 37, 40, 61, and 71, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule makes minor changes to recordkeeping, reciprocity and physical protection. Also, all references to Indian tribes are changed to Indian tribes. This Rule was promulgated by the Nuclear Regulatory Commission (NRC) as RATS ID 2015-4 and 2015-5. This Rule will update the state regulations to be compatible with changes in the federal regulations. The changes in the state regulations are category B, C and H&S requirements for the State of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that Chapter.

* * *

Indian Tribe—an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5130.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:982 (June 2008), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:283 (February 2014), LR 40:1338 (July 2014), LR 40:1926 (October 2014), LR 41:1276 (July 2015), LR 41:2321 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2137 (December 2018).

Chapter 3. Licensing of Byproduct Material

Subchapter D. Specific Licenses

§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Byproduct Material

A. - J.2.d.i. …

ii. the individual practiced at a pharmacy at a government agency or a federally recognized Indian tribe before November 30, 2007, or at all other pharmacies before August 8, 2009, or at an earlier date as recognized by the Nuclear Regulatory Commission;

J.2.e. - e.iv. …

v. documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or at an earlier date as noticed by the NRC; and

J.2.e.vi. - M.4.g. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005), LR 33:2179 (October 2007), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:286 (February 2014), LR 40:1341 (July 2014), LR 41:1278 (July 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2137 (December 2018).

§342. Records

A. Each person who receives source or byproduct material in accordance with a license issued in accordance with these regulations shall keep records showing the receipt, transfer, and disposal of this source or byproduct material as follows.

1. The licensee shall retain each record of receipt of source or byproduct material as long as the material is possessed and for three years following transfer or disposition of the source or byproduct material.

2. The licensee who transferred the material shall retain each record of transfer of source or byproduct material until the department terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

3. The licensee shall retain each record of disposal of source or byproduct material until the department terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

4. If source or byproduct material is combined or mixed with other licensed material and subsequently treated in a manner that makes direct correlation of a receipt record with a transfer, export, or disposition record impossible, the licensee may use evaluative techniques (e.g., first-in, first-out), to make the records that are required by this Chapter account for 100 percent of the material received.

B. The licensee shall retain each record that is required by the regulations in this Chapter or by license condition for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, each record must be maintained until the department terminates the license that authorizes the activity that is subject to the recordkeeping requirement.

C. Prior to license termination, each licensee authorized to possess source material, in an unsealed form, shall forward the following records to the department:

1. records of disposal of licensed material made under LAC 33:XV.461, 462, 463, and 464; and

2. records required by LAC 33:XV.472.B.4.

D. If licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, each licensee authorized to possess radioactive material, in an unsealed form, shall transfer the following records to the new licensee, and the new licensee will be responsible for maintaining these records until the license is terminated:

1. records of disposal of licensed material made under LAC 33:XV.461, 462, 463, and 464; and

2. records required by LAC 33:XV.472.B.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2137 (December 2018).

Subchapter E. Reciprocity

§390. Reciprocal Recognition of Licenses

A. Subject to these regulations, any person who holds a specific license from the U.S. Nuclear Regulatory Commission, any other agreement state, or any licensing state and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state, except in areas of exclusive federal jurisdiction, for not more than 180 days in any calendar year provided that the following conditions are met.

A.1. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 26:2768 (December 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 33:2181 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2138 (December 2018).

Chapter 4. Standards for Protection against Radiation

Subchapter Z. Appendices

§499. Appendices A, B, C, D, E

A. - C. …

* * *

D. Appendix D

Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal Facilities and Manifests

A. - B. …

C. NRC Forms 540, 540A, 541, 541A, 542, and 542A, and the accompanying instructions, in hard copy, may be obtained by writing or calling the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-5877 or by visiting the NRC's Web site at http://www.nrc.gov and selecting forms from the index found on the home page.

D. - H.5.b. …

E. Appendix E

Classification and Characteristics of Low-Level Radioactive Waste

A. - C. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), LR 22:973 (October 1996), LR 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 28:1012 (May 2002), amended by the Office of Environmental Assessment, LR 31:48 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005), LR 33:2183 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014), LR 40:1341 (July 2014), LR 41:1279 (July 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2138 (December 2018).

Chapter 7. Use of Radionuclides in the Healing Arts

§763. Training

A. - B.2. …

3. A radiation safety officer, a medical physicist, or a nuclear pharmacist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses or in the practice of nuclear pharmacy at a government agency or federally-recognized Indian tribe before November 30, 2007, or at any other location of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of Subsection A, J, or K of this Section, respectively, when

performing the same uses. A nuclear pharmacist, who prepared only radioactive drugs containing accelerator-produced radioactive materials, or a medical physicist, who used only accelerator-produced radioactive materials, at the locations and time period identified in this Paragraph, qualifies as an authorized nuclear pharmacist or an authorized medical physicist, respectively, for those materials and uses performed before these dates, for purposes of this Chapter.

4. - 5. …

6. A physician, dentist, or podiatrist who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses performed at a government agency or federally-recognized Indian tribe before November 30, 2007, or at any other location of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of this Section when performing the same medical uses. A physician, dentist, or podiatrist who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses at the locations and time period identified in this Paragraph, qualifies as an authorized user for those materials and uses performed before these dates, for purposes of this Chapter.

B.7. - M. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), LR 34:983 (June 2008), LR 34:2121 (October 2008), LR 36:1772 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:1342 (July 2014), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2138 (December 2018).

Chapter 15. Transportation of Radioactive Material

§1519. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste [Formerly §1516]

A. As specified in Subsections B, C, and D of this Section, each licensee shall provide advance notification to the governor, or to the governor's designee, of the shipment of licensed material, within or across the boundary of Louisiana, before the transport, or delivery to a carrier for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage. A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the *Federal Register* on June 30, 1995 (60 FR 34306). The list of governor's designees and tribal official's designees of participating tribes will be published annually in the *Federal Register* on or about June 30 to reflect any changes in the information. The list of the names and mailing addresses of the governors' designees and Tribal official's designees of participating tribes is also available on request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. In Louisiana, the governor's designee is the Louisiana State Police, 7919 Independence Boulevard, Box 66614 (#A2621), Baton Rouge, LA 70896-6614.

1. As specified in Subsections B, C, and D of this Section, after June 11, 2013, each licensee shall provide advance notification to the *tribal official* as defined in LAC 33:XV.102 of participating tribes referenced in Subsection A of this Section, or the official's designee, of the shipment of licensed material, within or across the boundary of the tribe's reservation, before the transport, or delivery to a carrier for transport, of licensed material outside the confines of the licensee's plant, or other place of use or storage.

B. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 21113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000), LR 26:2602 (November 2000), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:2190 (October 2007), LR 34:2111 (October 2008), amended by the Office of the Secretary, Legal Division, LR 40:1928 (October 2014), LR 41:2325 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2139 (December 2018).

Chapter 16. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material

Subchapter B. Background Investigations and Access Control Program

§1613. Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material

A. - B.2. …

C. Procedures for Processing of Fingerprint Checks

1. For the purpose of complying with this Subchapter, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit to the U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB–05 B32M, Rockville, Maryland 20852, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 1–630–829–9565, or by email to *FORMS.Resource@nrc.gov*. Guidance on submitting electronic fingerprints can be found at *http://www.nrc.gov/site-help/e-submittals.html*.

2. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to U.S. NRC. For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at 301–

492–3531. Combined payment for multiple applications is acceptable. The commission publishes the amount of the fingerprint check application fee on the NRC's public web site. To find the current fee amount, go to the electronic submittals page at *http://www.nrc.gov/site-help/e-submittals.html* and see the link for the criminal history program under electronic submission systems.

3. The commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:2329 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2139 (December 2018).

§1615. Relief from Fingerprinting, Identification, and Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

A. - A.9. …

10. commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;

A.11. - B.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:2330 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2140 (December 2018).

Subchapter C. Physical Protection Requirements during Use

§1637. Reporting of Events

A. The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160. In no case shall the notification to the department be later than four hours after the discovery of any attempted or actual theft, sabotage, or diversion.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:2334 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2140 (December 2018).

Herman Robinson
General Counsel

1812#023

RULE

Office of the Governor
Board of Pardons
and
Committee on Parole

Clemency
(LAC 22:V.211 and XI.307, 510 and 514)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons and Parole has amended LAC 22:V.211. This Rule change provides clarification to hearing notification requirements to victims. LAC 22:XI.307, 510, 514 amendments implement Act 573 and 604 of the 2018 Regular Session of the Louisiana Legislature. Act 573 modifies the eligibility criteria for medical parole and medical treatment furlough. Act 604 provides parole eligibility for offenders who committed their offense during a certain time period. This Rule change provides clarification to hearing notification requirements to victims, modifies the criteria for medical parole and medical treatment furlough and provides parole eligibility for offenders who committed their offense during a certain time period. This Rule is hereby adopted on the day of promulgation.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part V. Board of Pardons

Chapter 2. Clemency

§211. Hearings before the Pardon Board

A. - B. …

C. At least 60 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the direct victim or the spouse or next of kin of the deceased victim. The notice is not required when the victim, or the spouse or next of kin of a deceased victim advises the board, in writing, that such notification is not desired;

4. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

5. any other interested person who notifies the Board of Pardons, in writing, giving name and return address.

D. The direct victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

E. The direct victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of telephone communication from the office of the local district attorney.

1. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the clemency hearing.

2. Any person making an oral presentation to the board will be allowed no more than 5 minutes. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. Any person making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes.

F. There is no limit on written correspondence in favor of and/or opposition to the applicant's request. a candidate for parole release or an applicant for clemency.

G. The board shall provide notice to the Department of Public Safety and Corrections, Crime Victims Services Bureau at least 30 days prior to pardon hearing.

H. If an applicant is requesting commutation of sentence, and is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

I. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in five years if it is his/her initial hearing, and every five years thereafter.

J. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12, and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:46 (January 2017), LR 44:574 (March 2018), LR 44:2140 (December 2018).

Part XI. Committee on Parole

Chapter 3. Parole—Eligibility and Types

§307. Medical Parole/Medical Treatment Furlough

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

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

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

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

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

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

6. In considering an offender for medical parole, the committee may require that additional medical evidence be produced or that additional medical examinations be conducted.

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

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

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

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

4. *Limited Mobility Offender*—any offender who is unable to perform activities of daily living without significant help or is totally confined to a bed or chair, including but not limited to prolonged coma and mechanical ventilation. Due to their significant limitation in mobility, these offenders represent a low public safety risk to society. If granted a medical furlough, limited mobility offenders shall only be discharged to an acute care hospital, nursing home, or other healthcare facility.

5. In considering an offender for medical parole, the committee may require that additional medical evidence be produced or that additional medical examinations be conducted

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

1. The committee on parole shall determine the risk to public safety and shall grant medical parole or medical treatment furlough only after determining that the offender does not pose a threat to public safety.

2. As a condition of the medical parole or medical treatment furlough, the offender shall waive their right to medical confidentiality and privacy.

3. Due to the nature of medical parole/medical treatment furlough cases, an exception to board policy, 05-509, victim notification and participation in hearings, shall be made regarding the notice to victims, requiring the notice to be at least 60 days in advance of the scheduled hearing date.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2270 (August 2013), LR

41:43 (January 2015), LR 42:1283 (August 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:2495 (December 2017), LR 44:575 (March 2018), LR 44:2141 (December 2018).

Chapter 5. Meetings and Hearings of the Committee on Parole

§510. Victims

A. Before a parole panel considers parole release for an offender who is serving a sentence of an offense in which a person was a victim, the direct victim of the offense shall be allowed to present written or oral testimony of the victim's views about the offense, the offender, and the effect of the offense on the victim. The parole panel shall allow one person to appear in person before the panel to present testimony on behalf of the victim. Nothing in this Section is intended to limit the panel's discretion to allow individual victims to make personal appearance or to make contact by phone through the local district attorney's victim advocacy representative. There is no limit on written correspondence in favor of and/or opposition to an offender's consideration for parole.

B. The direct victim, spouse, or next of kin of a deceased victim and any person who has filed a victim notice and registration form shall be advised in writing no less than 90 days prior to the scheduled hearing date.

1. *Victim*—an individual against whom a crime has been perpetrated.

C. The notice shall advise the victim, spouse, or next of kin of a deceased victim that:

1. the hearing is open to the public;

2. he or she may remain in the hearing room during the entire hearing (except during executive session); and

3. the direct victim, the guardian of the victim, or close relative of a deceased victim will be allowed to speak to the panel prior to its making a decision in the case.

D. The Committee on Parole has delegated the responsibility for advance notice of a scheduled hearing to the direct victim to the Department of Public Safety and Corrections, Division of Probation and Parole. This notification is not required when the direct victim cannot be located despite the exercise of due diligence.

E. The written notice is not required when the victim, the spouse, or next of kin of a deceased victim, advises the committee in writing that such notification is not desired.

F. If victim notification is determined to have not met the advance notice time requirements required by this section, a victim may request that a hearing be re-scheduled if the hearing has not yet been conducted. Likewise, a victim may waive the notice requirement; however, such waiver must be received in writing from the victim.

G. Should a hearing be re-scheduled by the board for any reason other than the victim's request, the board shall notify the victim as soon as possible by telephone and shall follow-up with written confirmation of the telephone notification via certified U.S. Mail (with return receipt requested).

H. The direct victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

I. The direct victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of telephone communication from the office of the local district attorney.

J. If more than one person is entitled to appear for a parole hearing, the person chosen by all persons entitled to appear may serve as a spokesperson for all those entitled to appear. Any person making an oral presentation to the parole panel will be allowed no more than five minutes. However, at the parole panel chairman's discretion more than one person may present a written or oral statement to the panel.

1. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes.

K. There is no limit on written correspondence in favor of and/or opposition to a candidate for parole release.

L. The Committee on Parole shall notify all persons who have filed a victim notice and registration form with the Department of Public Safety and Corrections of an offender's release from incarceration by parole. Such written notice shall be sent by certified mail (with return receipt requested).

M. Notice to Crime Victim Services Bureau of Parole Hearings. The committee shall provide notice to the Department of Public Safety and Corrections Crime Victims Services Bureau at least 30 days prior to parole hearings.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:47 (January 2017), LR 44:575 (March 2018), LR 44:2142 (December 2018).

§514. Voting/Votes Required

A. Unanimous Vote

1. A unanimous vote is required to grant parole or to recommend work release regardless of the number of committee members at the parole hearing, except as provided for in Paragraph 2 of this Subsection.

2. Notwithstanding any other provision of law, no person convicted of a crime of violence against any peace officer as defined in R.S. 14:30(B), shall be granted parole except after a meeting, duly noticed and held on a date to be determined by the chairman, at which at least five of the seven members of the committee are present and all members present vote to grant parole.

3. Notwithstanding any other provision of law, an offender serving a life sentence for second degree murder as defined in R.S. 14:30.1 and pursuant to the subsections, shall be granted parole except after a meeting, duly noticed and held on a date to be determined by the chairman, at which at least five of the seven members of the committee are present and all members present vote to grant parole.

a. The offense was committed after July 2, 1973, and prior to June 29,1979.

b. The offender has served forty years of the sentence imposed.

4. A unanimous vote is required to consider any action when the offender is not present as described in §511.B.2.b or §513.A.4.a.

5. All special conditions of release, including special conditions of diminution of sentence/parole supervision release, shall be approved by a unanimous vote of the panel.

B - E. …

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), amended LR 41:45 (January 2015), LR 44:2142 (December 2018).

Sheryl M. Ranatza
Board Chair

1812#030

RULE

Office of the Governor
Commission on Law Enforcement and Administration of Criminal Justice
Crime Victims Reparations Board

Compensation to Victims (LAC 22:XIII.301)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board has amended rules and regulations regarding the awarding of compensation to applicants. This Rule is hereby adopted on the day of promulgation.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XIII. Crime Victims Reparations Board
Chapter 3. Eligibility and Application Process
§301. Eligibility

A. To be eligible for compensation, an individual must have suffered personal injury, death or catastrophic property loss as a result of a violent crime.

1. Victim Conduct and Behavior

a. The Crime Victims Reparations Board may vote to deny or reduce an award to a claimant who is a victim, or who files an application on behalf of a victim, when any of the following occurs.

i. …

ii. The victim committed a felony offense or was serving a sentence for a felony offense committed within five years prior to the date of victimization or five years subsequent to serving the sentence. If the date of victimization occurs on or after August 1, 2018, then the Board may deny or reduce an award if the victim committed a felony offense within three years prior to the date of victimization or three years subsequent to serving the sentence.

1.a.iii. - 3.g. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), amended LR 31:2009 (August 2005), amended LR 35:65(January 2009), LR 36:2278(October 2010), LR 37:1605(June 2011), LR 41:1487 (August 2015), amended LR 44:2143 (December 2018).

Amanda Tonkavitch
Chair

1812#040

RULE

Office of the Governor
State Licensing Board for Contractors

Contractors (LAC XXIX.Chapters 1-15)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and through the authority granted in R.S. 37:2150-2192, which is the Contractor Licensing Law, the Licensing Board for Contractors (LSLBC) has amended its rules and regulations regarding contracting matters under the jurisdiction of the LSLBC. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXIX. Contractors
Chapter 1. Applications and Licensing
§101. Authority

A. These rules and regulations are enacted under the authority of and in accordance with R.S. 37:2153 and 37:2184.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, State Licensing Board for Contractors, LR 44:2143 (December 2018).

§103. Definitions

A. As used in these rules and regulations, words and phrases shall be defined as provided in R.S. 37.2150.1, in R.S. 37:2150-2192, and as otherwise defined in these Rules and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, State Licensing Board for Contractors, LR 44:2143 (December 2018).

§105. Requirements
[Formerly §301 and §1503]

A. Before a license or registration may be issued in accordance with the Contractors Licensing Law, all applications for a license or registration shall contain the information required on the forms which are available on the board's website or at the offices of the Licensing Board for Contractors. Licensure or registration cannot be considered until the following minimum conditions are met:

1. the application is complete and all required information provided to the board;

2. all applicable fees, fines, or other sums due to the board are paid in full; and

3. all examination or other eligibility requirements have been successfully completed.

B. Any person holding a license or registration as a residential contractor, residential specialty contractor, home

improvement contractor, and mold remediation contractor, including labor only, shall obtain and maintain workers' compensation and general liability insurance, obtained from an insurer authorized to sell those forms of insurance coverage in the state. Insurance certificates evidencing current workers' compensation and general liability insurance shall be submitted to the Licensing Board for Contractors with each new application and every renewal application. In the event of a lapse of insurance coverage, a cease and desist order may be issued and such lapse shall be grounds for suspension or revocation of the license at a disciplinary hearing by the board.

C. The issuance of any licenses or registrations will be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150 - 2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 1:401 (September 1975), amended LR 3:11 (January 1977), LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 16:602 (July 1990), promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:94 (February, 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:150 (January 2012), LR 44:2143 (December 2018).

§107. Report of Changes
[Formerly §105]

A. It shall be the responsibility of a person licensed or registered by the board to provide to the board all of the following information upon application for a license or registration and to notify the board in writing within 15 days of any change to the following information:

1. the licensee's type of business structure (sole proprietorship, partnership, limited liability company, corporation, etc.);
2. the licensee's business address (physical and U.S. postal service mailing address);
3. a telephone, cell phone and facsimile number;
4. the licensee's email address;
5. the licensee's name;
6. the identity and address of the licensee's registered agent;
7. the identity of each officer and the office held;
8. the identity or address of each partner; and
9. the identity or address of each member.

B. The failure of a person licensed or registered by the board to notify the board of changes to any of the enumerated items in Paragraph A within 15 days of the change may result in disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2144 (December 2018).

§109. Qualifying Party
[Formerly §501]

A. Any licensee may have more than one qualifying party. Nothing in the law is to be construed so as to prohibit a licensee from having more than one qualifying party per trade.

B. If a qualifying party for a particular trade terminates employment or ownership/membership with a licensee, the licensee's license remains valid and the licensee may bid on new work in the licensed trade classification, but the licensee must submit and qualify a new qualifying party before commencing any new work.

C. A qualifying party shall be required to successfully complete any trade examinations, and complete the business and law course and any other eligibility requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:136 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1127 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), LR 44:2144 (December 2018).

§110. Reliance upon Exemption

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), repealed LR 44:2144 (December 2018).

§111. Authorized to Take Examination
[Formerly §503]

A.1. The qualifying party or parties authorized to take the examination are:

a. a sole proprietor or spouse of a sole proprietor (individual);

b. any partner (partnership);

c. any original stockholder or incorporator (corporation);

d. any member (limited liability company); or

e. any employee of said applicant who has been in full-time employment for 120 consecutive days immediately preceding the examination.

2. The employee shall be required to complete a qualifying party application furnished by the board before examination attesting to his/her eligibility that he/she has been a full-time employee of the person for whom he/she is seeking to qualify working at least 32 hours per week for the preceding 120 consecutive days and that he/she meet the criteria to be classified as an *employee* as defined by the Internal Revenue Service. The qualifying party application will be signed and certified by both the employee/qualifying party and employer.

B. An employee who has not been in full-time employment for 120 consecutive days immediately preceding the application due to an absence resulting from deployment in active military service may be considered as a full-time employee if the employee has been re-employed in accordance with R.S. 29:410 and, considering the employee's period of employment immediately preceding the absence resulting from deployment in active military service, the employee otherwise satisfies the requirement of full-time employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153(A).

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:136 (March 1982), amended by

the Department of Economic Development, Licensing Board for Contractors, LR 19:1127 (September 1993), LR 23:1495 (November 1997), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), LR 44:2144 (December 2018).

§113. Disassociation of a Qualifying Party [Formerly §103]

A. When a qualifying party's employment or association with the licensee is terminated for any reason, the licensee shall notify the board in writing within 30 days of the termination. The licensee shall submit and qualify a new person as its qualifying party within 60 days of the termination of the prior qualifying party. If the licensee fails to qualify a new qualifying party within 60 days as required herein, the licensee's license may be suspended or revoked by the board.

B. It is a violation of R.S. 37:2158 to fail to notify the board of the disassociation or termination of a qualifying party and may subject the licensee to disciplinary proceedings by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2145 (December 2018).

§115. Exemption from Examination [Formerly §509]

A. A qualifying party may be exempt from taking another examination for the same classification he has previously passed.

B. Proof of plumbing work, including a plumbing license or permit, will be insufficient to exempt an applicant from the examination required for a mechanical contractor's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:136 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 16:602 (July 1990), LR 19:1127 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), LR 44:2145 (December 2018).

§117. Examination Scheduling [Formerly §515]

A. A qualifying party candidate who has been approved to take an examination shall be given a means to register for the examination.

B. A candidate who fails to appear on the scheduled examination date and time shall forfeit the examination fee and be required to submit a new fee before candidate will be allowed to schedule a new examination date.

C. A candidate who fails an examination cannot retake the examination for 30 days and only if all other eligibility requirements have been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), LR 44:2145 (December 2018).

§119. Examination Administration Procedures [Formerly §513 and §517]

A. Administrative check-in procedures begin one-half hour before the examinations begin. Candidates must report to the testing center for processing at least 15 minutes prior to the examination's starting time. Any candidate reporting after the 15-minute starting time may not be allowed admittance to the examination room. Every candidate must present acceptable government-issued photographic identification to be admitted to the examination room.

B. Personal items (e.g., telephones, pagers, calculators, purses, briefcases, etc.) shall not be allowed in the testing room. A candidate shall not have access to these items during examination administration. Anyone found using unauthorized code books, text books, pagers, beepers, cellular telephones, tape recorders, radio transmitters, portable scanning devices, cameras, portable photocopy machines, reference materials, notes, blank writing or note paper, or any other aid or electronic device not specifically provided by the Examination Section for the purpose of examination administration shall have his or her examination confiscated, the exam results invalidated, and shall have his or her name placed on the agenda for the board's next regularly scheduled meeting for consideration and appropriate action. Failure to appear before the board shall result in the imposition of a one year waiting period before the applicant may retake the examination(s).

C. It is the policy of the board that the specific contents of its examinations are considered to be proprietary and confidential. Anyone found in possession of examination questions, answers, or drawings in whole or in part shall have his or her examination confiscated, the exam results invalidated, shall be barred from taking any other examination, and shall not be eligible to become a qualifying party for the licensee for a period of one year. A candidate wearing bulky clothing or attire which would facilitate concealment of prohibited materials shall be requested to leave said clothing or attire outside the examination room or to remove it and place it in the front of the examination room. Failure to remove the article shall constitute permission to search for contraband materials, or a forfeiture of the scheduled examination will occur.

D. All examination activities are subject to being filmed, recorded, or monitored.

E. A candidate taking an examination shall not be allowed access to telephones or other communication devices during the course of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), LR 44:2145 (December 2018).

§121. Test Item Challenges [Formerly §519]

A. A candidate who believes that an individual test item may not have a correct answer or may have more than one correct answer shall be afforded an opportunity to challenge the test item. The candidate shall record his or her comments in writing on a form supplied by the test monitor at the

candidate's request during the examination. Comments will not be accepted at any other time. Comments should provide a detailed explanation as to why the candidate feels the item is incorrect. General comments (e.g., "This item is wrong.") will not be investigated.

B. Examination comments will be reviewed by board staff.

C. If a test item comment is deemed to be valid, the grade may be changed based upon test item comment(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), LR 44:2145 (December 2018).

§123. Examination Reviews [Formerly §521]

A. A Candidate may request a review of their examination after two unsuccessful attempts to pass the same examination, provided the last test score is within ten points of a passing grade. The request must be made in writing within 60 days of the failed examination date. Only questions missed by the qualifying party may be reviewed. Standard security procedures will be observed at review sessions. Candidates who have reviewed an examination are not eligible to retake the same examination for 14 days after the review session. Candidates who fail to appear for a scheduled review session are disqualified from reviewing that examination at a future date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 21:1215 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:154 (January 2012), LR 44:2146 (December 2018).

§125. Application of Subsidiary [Formerly §309]

A. Any application for a license for a subsidiary shall be considered as a new application and subject to all laws and rules and regulations governing a new application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2154.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), LR 44:2146 (December 2018).

§127. Approval Withheld [Formerly §317]

A. If the board withholds approval of an application for a license or registration, the applicant shall have the right to apply to the board for a hearing to consider the application. After due consideration of the applicant's presentation to the board, the board shall be entitled to withhold approval or grant approval of the application after consideration of the licensing requirements of the Contractors Licensing Law and these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153 and R.S. 37:2157(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended LR 11:341 (April 1985), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), LR 44:2146 (December 2018).

§129. Licensure for Individuals with Military Training and Experience, and Military Spouses [Formerly §321]

A. The board shall issue a license or registration to a military-trained applicant to allow the applicant to lawfully act as a person licensed or registered by the board in this state if, upon application to the board, the applicant satisfies all of the following conditions:

1. has completed a military program of training, been awarded a military occupational specialty, and performed in that specialty, and performed in that specialty at a level that is substantially equivalent to or exceeds the requirements for licensure or registration by the board in this state;

2. has engaged in the active practice of contracting in the classification or subclassification for which a license or registration is sought;

3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a contractor's license or registration in this state at the time the act was committed.

B. The board shall issue a license or registration to a military trained applicant, if, upon application to the board, the applicant holds a current license, certification, or registration from another jurisdiction and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure or registration in this state.

C. The board shall issue a license or registration to a military spouse to allow the military spouse to act as a contractor in this state if, upon application to the board, the military spouse satisfies all of the following conditions:

1. holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification or registration are substantially equivalent to or exceed the requirements for licensure or registration in this state;

2. can demonstrate competency to act as a contractor through methods determined by the board such as, but not limited to, having completed continuing education units or having had recent experience in the classification or subclassification for which a license or registration is being sought;

3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license or registration to act as a contactor in this state at the time the act was committed;

4. is in good standing and has not been disciplined by the agency that issued the license, certification, or permit.

D. The board shall issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure or registration, if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure or registration in this state. The military-trained applicant or military spouse may practice under the temporary permit until a license or registration is granted, or until a notice to deny a license or registration is issued in accordance with §717.

E. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2156.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014), LR 44:2146 (December 2018).

§131. Ownership of License
[Formerly §307]

A. The license for which a person becomes the qualifying party belongs to the licensee, a corporate license belongs to the corporation; a partnership license belongs to the partnership; a limited liability company license belongs to the limited liability company, and an individual license belongs to the individual, regardless of the status of the qualifying party of the entity.

B. A domestic business entity licensed or registered by the board as a limited liability company, business corporation, partnership in commendam, or partnership, that converts under the provisions of R.S. 12:1601 et seq., or is a surviving entity following a merger pursuant to 26 U.S.C. 368(a)(1)(f) where ownership of the entity does not change, shall be recognized by the board without having to file a new application for a license or registration. However, prior to updating a license or registration of the converted entity or surviving entity, the converted entity or surviving entity must furnish the following information to the board:

1. a copy of the conversion application or act of merger filed with the Secretary of State;

2. a copy of the certificate of conversion or certificate of merger issued by the Secretary of State;

3. the current license or registration issued by the board;

4. a copy of the revised certificate(s) of insurance in the new name of the converted entity or surviving entity for any coverage required for the issuance of the updated license or registration; and

5. any revised contract or other agreement required for the issuance of the license or registration in the name of the converted entity or surviving entity.

C. An updated license or registration issued pursuant to Subsection B of this Section shall have an effective date retroactive to the effective date of the conversion as stated on the certificate of conversion, or the merger as stated on the certificate of merger.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153 and R.S. 12:1308.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:136 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:150 (January 2012), LR 40:2575 (December 2014), LR 44:2147 (December 2018).

§133. Name
[Formerly §109]

A. A person licensed or registered by the board shall bid, contract, and perform work in the name as it appears on the current license or registration and the official records of the Licensing Board for Contractors.

B. If a person licensed or registered by the board enters into a contract with or assigns a contract, or any portion of a contract, for which a license is required to another person, the person to which it is assigned and who performs the work must possess the appropriate current license or registration issued by the board. No unlicensed person shall be permitted to assign a contract, or any portion of a contract, in an amount for which a license is required to a person licensed or registered with the board in circumvention of the Contractors Licensing Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2147 (December 2018).

§135 Contractor's Recordkeeping
[Formerly §101]

A. It shall be the responsibility of each person licensed or registered by the board to maintain current records showing compliance with the licensure requirements for all contracts, subcontracts and subcontractors performing work or providing services on a construction project. Upon request by the board or any employee of the board, such records shall be made available for review and/or copies provided to the board employee in person or by electronic means. The failure to maintain current records or the failure to furnish copies of requested records within 72 hours after receipt of notice requesting production of the records shall constitute a violation of this rule and may result in disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:135 (March 1982), amended LR 12:761 (November 1986), amended by the Department of Economic Development, Licensing Board for Contractors, LR 16:601 (July 1990), LR 19:1125 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2147 (December 2018).

§137. Fee for Licenses
[Formerly §1301]

A. The annual fee for licenses for the following year may be set by the board at its July meeting each year. If a new fee is not set, the fee(s) for the prior year shall continue to be in full force and effect until changed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 2:271 (September 1976), amended LR 8:136 (March 1982), LR 10:199 (March 1984), LR 11:341 (April 1985), LR 12:761 (November 1986), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2147 (December 2018).

Chapter 3. Classifications

§301. Major Classification
[Formerly §117]

A. Any contractor possessing a major classification is permitted to bid or perform any of the specialty type work listed under its respective major classification in R.S. 37:2156.2 or any other work that might not be listed which

is directly related to the major classification it may hold as long as it is not prohibited by any rule, except as provided in R.S. 37:2156.2(A)(IX)(B), (C), and (D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 11:340 (April 1985), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2147 (December 2018).

§303. Additional Classifications
[Formerly §505]

A. A licensed contractor may add additional classifications to his license at any time provided:

1. the request for additional classification(s) is in writing;

2. a completed and notarized qualifying party application form is submitted pursuant to R.S. 37:2156.1(D)(1); and

3. the required additional fees are paid and the qualifying party successfully passes the examination or meets other eligibility requirements.

B. The addition of classifications to a license will be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:136 (March 1982), amended LR 11:341 (April 1985), LR 12:760 (November 1986), amended by the Department of Economic Development, Licensing Board for Contractors, LR 16:602 (July 1990), LR 19:1127 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:152 (January 2012), LR 44:2148 (December 2018).

§305. Electrical or Mechanical Work
[Formerly §1113]

A. Any person bidding on or performing a job for which a license is required, the majority of which job is classified as V. Electrical Work or Vl. Mechanical Work, the licensee shall hold the major classification or subdivision thereunder of electrical work or mechanical work as the case may be.

B. On all jobs involving mechanical or electrical work, the board shall consider the monetary value of the electrical or mechanical material and/or equipment furnished by the owner or builder, if any, in determining the amount of electrical or mechanical work involved.

C. The board takes cognizance of all local ordinances and codes regulating the licensing of electrical and mechanical contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2159 and 37:2153.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2148 (December 2018).

§307. Joint Venture
[Formerly §1103.C]

A. When two or more persons bid as a joint venture on any project in the amount for which a license is required from the board, all parties to the joint venture are required to be licensed by the board at the time the bid is submitted. The joint venture may only perform work within the applicable classifications of the work for which the parties to the joint venture are properly licensed to perform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 40:2577 (December 2014), LR 44:2148 (December 2018).

§309. Construction Management
[Formerly §119]

A.1. Any person who performs, attempts to perform, or submits a price, bid or offer to perform work in construction management or program management whose scope of authority and responsibility includes supervision, oversight, direction, or in any manner assuming charge of the construction services provided to an owner by a contractor or contractors, in which the value of the construction project is:

a. in excess of $50,000 for a commercial construction project must possess a license from this board in the major classification of building construction, heavy construction, highway, street, and bridge construction or municipal and public works construction or

b. in excess of $75,000 for a residential construction project must possess a license from this board in the classification of residential building contractor. Any licensed contractor with any of these major classifications shall be able to bid and perform any such project specified for construction and/or program management within the scope of the classification(s) they hold.

2. If a construction or program manager whose scope of authority and responsibilities does not include any of the above stated tasks, and who does not subcontract actual construction work, that construction or program manager does not need a contractor's license.

B. Any person who violates the provisions of this section may be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 41:536 (March 2015) amended, LR 44:2148 (December 2018).

§311. Solar Energy Equipment
[Formerly §319]

A. Any person applying for the classification of solar energy equipment, must, in addition to all other application or licensing requirements, meet the following requirements prior to issuance of this classification:

1. hold one or more of the following major classifications:

a. building construction;

b. electrical work;

c. mechanical work;

d. residential building contractor;

2. complete training in the design of solar energy equipment by an entity and course approved by the board;

3. pass a written examination approved by the Licensing Board for Contractors on the installation and maintenance of solar energy equipment.

a. Any contractor licensed by the board as of August 1, 2014, holding the major classification of building

construction, electrical work (statewide) and/or mechanical work (statewide) shall be deemed to have satisfied the examination requirement.

b. An applicant who holds a current solar pv installer certification for solar electric systems or a current solar heating installer certification for solar thermal hot water systems issued by the North American Board of Certified Energy Practitioners shall be deemed to have satisfied both this examination requirement and the training requirement in §311.A.2.

B. Any work performed to connect wiring or hookups for any photovoltaic panel or system wherein the panel or system is of a value, including labor, materials, rentals, and all direct and indirect project expenses of $10,000 or more shall be performed only by a contractor or subcontractor who holds the classification of electrical work or who may perform electrical work under the provisions of R.S. 37:2156.2A(IX)(B).

C. Any work performed to connect piping or equipment for any solar thermal system wherein the system is of a value, including labor, materials, rentals, and all direct and indirect project expenses of $10,000 or more shall be performed only by a contractor or subcontractor who holds the classification of mechanical work or who may perform mechanical work under the provisions of R.S. 37:2156.2A(IX)(B).

D. Entities engaging in the business of selling or leasing solar energy equipment wherein such entities enter into agreements for installing, servicing, or monitoring solar energy equipment, including entities engaged in the business of arranging agreements for the lease or sale of solar energy systems or acquiring customers for financing entities, must possess a state contractor's license with the classification of solar energy equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2156.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014), amended LR 44:2148 (December 2018).

§313. Division of Contract—Value of Project [Formerly §1109]

A. In determining the value of a project, any division of a contract into parts which would avoid the necessity of a license to bid for, contract for, or perform the work, will be disregarded, and the parts of the contract will be treated as one contract totaling the amount of these parts when combined.

B. For the purpose of determining a scope of work, the board should review whether the contract or contracts in question constitute a single scope of work or whether they constitute separate scopes of work. The board may be guided in this interpretation by a review of the drawings, plot plans, blueprints, architectural plans, site maps, technical drawings, engineering designs, sketches, diagrams, black lines, blue lines, drafts or other renderings depicting the total scope of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2149 (December 2018).

§315. License Revocation and Suspension

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), repealed LR 44:2149 (December 2018).

§317. Approval Withheld

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153 and R.S. 37:2157(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended LR 11:341 (April 1985), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), repealed LR 44:2149 (December 2018).

§319. Solar Energy Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2156.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014), repealed LR 44:2149 (December 2018).

§321. Licensure for Individuals with Military Training and Experience, and Military Spouses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2156.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014), repealed LR 44:2149 (December 2018).

Chapter 5. Residential and Home Improvement

§501. Definitions [Formerly §1501]

A. Any person bidding or performing the work of a general contractor on a residential project in the amount for which a license is required must be licensed under the classification *residential building contractor*. This requirement shall not include individuals who build no more than one residence per year for their own personal use as their principal residence.

B. Any residential building contractor is permitted to bid or perform any of the specialty type work listed under its respective major classification in §503.

C. "Cost of a project" or "value" of a project or work includes the value of all labor, materials, subcontractors, general overhead and supervision. With respect to modular housing, "cost of the project" shall not include the cost of the component parts of the modular home in the condition each part leaves the factory, in accordance with R.S. 40:1730.71.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:94 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2149 (December 2018).

§503. Residential Specialty Classifications [Formerly §1515]

A. Any person that is not a licensed residential contractor who, offers to perform, performs, or provides a bid to perform or superintend the following work for a price or fee where the value of the work performed or offered to be performed exceeds $7,500 including labor and material as it relates to new residential construction of any building or structure that is not more than three floors in height, to be used by another as a residence, is required to obtain a specialty classification license from the board for that work if the work includes one of the following:

1. residential pile driving;
2. residential foundations;
3. residential framing;
4. residential roofing;
5. residential masonry/stucco.

B. Any person who seeks to obtain a license for one of the above specialty classifications must, in addition to all other application or licensing requirements, designate a qualifying party who must successfully complete the trade exam for the respective specialty and complete the business and law course.

C. Any person who violates the provisions of this section may be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 42:52 (January 2016), amended LR 44:2150 (December 2018).

§505. Residential Labor Only [Formerly §1517]

A. In lieu of obtaining a residential specialty classification required under §503, a person who provides labor only and does not supply materials may obtain a subcontract-labor-only specialty classification for work performed under the direct supervision of a licensed residential building contractor. To obtain such a specialty classification, the subcontractor must:

1. complete and submit the application prescribed by the board for the subcontract-labor-only specialty classification;
2. submit an affidavit (on the form prescribed by the board for the subcontract-labor-only specialty classification) that is executed by a licensed residential building contractor who holds at least one contract with the subcontractor and attests to the subcontractor's quality of work and character; and
3. complete the business and law course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 42:52 (January 2016), amended LR 44:2150 (December 2018).

§507. Residential Swimming Pools Licensing

A. Any person that is not licensed in building construction or in the swimming pools subclassification of building construction who, offers to perform, performs, or provides a bid to perform work for the construction of a residential swimming pool on property where a building or structure that is not more than three floors in height may be or has been constructed and is intended to be used or is being used as a residence and where the value of the swimming pool construction work exceeds $7,500, including labor and materials, is required to obtain a license for the residential specialty classification entitled residential swimming pools. Persons holding a residential building contractor license may provide a bid, provide pricing, or enter into a contract to construct a residential swimming pool but cannot perform the swimming pool construction work for a residential swimming pool until first obtaining a license from the board for the residential specialty entitled residential swimming pools.

B. Any person who seeks to obtain a residential specialty license for the construction of residential swimming pools must, in addition to all other application or licensing requirements, designate a qualifying party who must successfully complete the trade exam for the respective specialty and complete the business and law course.

C. Any person who violates the provisions of this section may be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 42:52 (January 2016), amended LR 44:2150 (December 2018).

§509. Home Improvement Registration [Formerly §1511]

A. Home improvement contractors are required to register with the board in order to perform services when the value of work exceeds $7,500 but does not exceed $75,000. Contractors who hold valid commercial or residential licenses with the board are exempt from this registration requirement. Home improvement contractors are required to submit certificates evidencing workers' compensation coverage in compliance with Title 23 of the *Louisiana Revised Statutes* of 1950 and proof of general liability insurance in a minimum amount of $100,000 at the time of application and renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 38:813 (March 2012), amended LR 40:2577 (December 2014), LR 44:2150 (December 2018).

§511. New Home Warranty Act [Formerly §1513]

A. Pursuant to R.S. 9:3145, a residential contractor shall give the owner written notice of the requirements of the New Home Warranty Act.

B. Failure to provide such written notice shall be grounds for the residential subcommittee to suspend or revoke the license of the contractor who failed to provide the required notice, subject to the final approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 38:813 (March 2012), amended LR 44:2150 (December 2018).

§513. Maintenance of Skills [Formerly §113]

A. As provided by R.S. 37:2150 after granting said license, the licensee shall at all times show its ability to serve the public economically, expediently and properly; shall possess the necessary qualifications of responsibility, skill, experience and integrity so that the licensee will not tear down standards of construction established within the

industry, and shall continue to maintain the qualifications established in R.S. 37:2156.1.

B. A residential building contractor shall be required to complete a minimum of six hours of continuing education annually by a board approved provider. The residential building contractor shall maintain a copy of a certificate of completion for five years and make the certificate available to the board upon request. A contractor who holds a residential building contractor license and a valid, current license in the major classifications of building construction; highway, street and bridge construction; heavy construction; or municipal and public works construction, shall be exempt from this continuing education requirement.

C. A residential building contractor who fails to complete the minimum required continuing education classes each year may subject the residential building contractor's license to disciplinary action including suspension or revocation by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:150 (January 2012), LR 40:2574 (December 2014), LR 44:2150 (December 2018).

§515. Examination Scheduling

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, State Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), repealed LR 44:2151 (December 2018).

§517. Examination Administration Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), repealed LR 44:2151 (December 2018).

§519. Test Item Challenges

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014), repealed LR 44:2151 (December 2018).

§521. Examination Reviews Prohibited

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 21:1215 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:154 (January 2012), repealed LR 44:2151 (December 2018).

Chapter 7. Enforcement and Hearings

§701. Enforcement of Act and Rules [Formerly §107]

A. The board, pursuant to R.S. 37:2158 and R.S. 37:2161, may bring suit to enjoin violations of the Contractors Licensing Law and these rules and regulations. The executive director and/or his designated agent and/or the legal counsel for the board is hereby authorized to institute such suit on behalf of the board, to sign the verification of any petition, and to take any actions necessary in connection with the institution of such legal proceedings as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2151 (December 2018).

§703. Correction without Complaint [Formerly §111]

A. If a possible violation is known to the board, the board may correct it or take appropriate action without formal complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:149 (January 2012), LR 44:2151 (December 2018).

§705. Failure to Insure or Bond [Formerly §1111]

A. Whenever a person licensed by the board bids a project within the scope of this act and is awarded the contract, the refusal or inability of the person licensed by the board to provide bonding and insurance coverage as required by the bid proposal, may be grounds for a finding of a violation of §513.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 44:2151 (December 2018).

§707. Bankruptcy [Formerly §115]

A. It shall be the responsibility of any person licensed or registered by the board who, voluntarily or involuntarily, is subjected to any provision of the laws of bankruptcy, to notify this board immediately and to make available to this board any and all information pertinent thereto.

B. Any person licensed or registered by the board who is ordered by a competent court to cease operations or whose operations are closed due to operation of any law, shall

notify this board immediately and make available to this board any and all information pertinent thereto.

C. If a person licensed or registered by the board is ordered by a competent court to pay a final and executory judgment awarded against the licensed or registered person in the operation of the licensed or registered business, resulting from a claim arising out of the operation of the licensed or registered business, and fails to pay said judgment upon its becoming final and executory, a hearing may be scheduled by the board for the purpose of disciplining the licensee or registrant in accordance with the provisions of the Contractors Licensing Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:138 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:150 (January 2012), LR 44:2151 (December 2018).

§709. License Revocation and Suspension
[Formerly §315]

A. Any person duly licensed or registered under the provisions of the Contractors Licensing Law who violates any provisions of the Contractors Licensing Law or any rule or regulation of the board may, after due hearing, be required to pay fines and costs and have its license or registration suspended or revoked by the board. Prior to the board's action on suspension or revocation of licenses as aforesaid, the person licensed or registered by the board shall be given a hearing in accordance with §717 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:151 (January 2012), LR 44:2152 (December 2018).

§711. Subcontractor License; Default
[Formerly §903]

A. It shall be a violation for any person licensed or registered by the board, owner, awarding authority, or any other person to contract or subcontract all or any portion of work to any other person unless said person was duly licensed by the board as of the final date fixed for the submission of bids on said work from the primary contractor to the owner or awarding authority. This rule shall be subject to the provisions and limitations established by R.S. 37:2156(B) and (D).

B. If work is subcontracted as per this rule, and the subcontractor should default for any reason, the awarding authority shall have the right to take bids from any person that is properly licensed by the board at the time of the default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:154 (January 2012), LR 44:2152 (December 2018).

§713. Residential Subcommittee Review
[Formerly §1507]

A. The Licensing Board for Contractors Residential Subcommittee has the authority to conduct hearings on alleged violations by residential building contractors, residential specialty contractors, mold remediation contractors and home improvement contractors in accordance with the provisions of R.S. 37:2158.

B. The Licensing Board for Contractors Residential Subcommittee shall make recommendations to the Contractors Board regarding their findings and determinations as a result of the hearings on said alleged violations.

C. Any person licensed as a residential building contractor, residential specialty contractor, home improvement contractor, or mold remediation contractor whose alleged violations were heard by the subcommittee and a recommendation rendered, may request to appear at the next regularly scheduled board meeting or at any other board meeting where their alleged violations are brought before the board for final action, and may be given an opportunity to address the board regarding the subcommittee's recommendation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:95 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), LR 44:2152 (December 2018).

§715. Penalties
[Formerly §1509]

A. The residential subcommittee has the authority to issue, suspend, or revoke residential licenses or registrations issued to a residential building contractor and residential specialty contractor subject to the final approval of the Licensing Board for Contractors.

B. In accordance with the provisions of R.S. 37:2162, the subcommittee shall have the authority to issue a fine not to exceed ten percent of the total contract being performed for each violation, for the causes listed in R.S. 37:2158, subject to final approval by the Licensing Board for Contractors.

C. In addition to or in lieu of any of the penalties provided in this Chapter, the subcommittee is empowered to issue a cease and desist order. Further, the subcommittee may seek the other civil remedies provided in R.S. 37:2162 for violations of this Chapter, subject to the final approval of the Licensing Board for Contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:95 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), LR 40:2577 (December 2014), LR 44:2152 (December 2018).

§717 Hearings
[Formerly §701]

A. Hearings regarding any disciplinary proceedings or any other matters to be considered by the board may be conducted by the board's legal counsel at regular or special

meetings whenever deemed necessary and special hearing officers may be hired at the board's discretion. Hearings shall be conducted in accordance with the Administrative Procedure Act.

B. Written notice of the hearing date shall be given to a party who is the subject of a disciplinary proceeding or other matter before the board at least five days prior to such hearings or special meetings. The board members shall be notified at least three days prior to such hearings or special meetings. The notice shall include the time, place and purpose of the hearing or special meeting and may be held at any place within the state.

C. Confirmation of the written notice to a party who is subject to a disciplinary proceeding or other matter before the board required by this Section may be proved by any one of the following:

1. a signed return receipt of certified or registered mail, confirming delivery and receipt of the notice;

2. a signed confirmation by a board employee that actual physical delivery was made to the party, contractor, or agent of the contractor delivered to the address provided to the board by the party or contractor;

3. a confirmation of facsimile transmission to the number provided to the board by the party or contractor;

4. a copy of notice by electronic transmission to the electronic address provided to the board by the party or contractor;

5. a printed electronic confirmation of delivery to the party or contractor and/or confirmation of signature from the U.S. Postal Service;

6. a written, electronic, or facsimile response to the notice or subpoena provided therewith, from the party, contractor or its representative; or

7. appearance by the party, contractor or its authorized representative at the hearing.

D. As authorized by R.S. 49:962, the board may hear and decide petitions for declaratory orders and rulings as to the applicability of any statutory authority or of any rule or order of the board. Such orders and rulings shall have the same status as board decisions or orders in adjudicated cases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 4:69 (March 1978), LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1127 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:154 (January 2012), LR 44:2152 (December 2018).

Chapter 9. Subcontractors

§901. Subcontractors

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:154 (January 2012), repealed LR 44:2153 (December 2018).

§903. Subcontractor License; Default

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:154 (January 2012), repealed LR 44:2153 (December 2018).

Chapter 11. Bidding

§1103. Proper Classification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Licensing Board for Contractors, LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 40:2577 (December 2014), repealed LR 44:2153 (December 2018).

§1109. Division of Contract

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), repealed LR 44:2153 (December 2018).

§1111. Failure to Insure or Bond

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012) , repealed LR 44:2153 (December 2018).

§1113. Electrical or Mechanical Work

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2159 and 37:2153.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), repealed LR 44:2153 (December 2018).

Chapter 13. Fees

§1301. Fee for Licenses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 2:271 (September 1976), amended LR 8:136 (March 1982), LR 10:199 (March 1984), LR 11:341 (April 1985), LR 12:761 (November 1986), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), repealed LR 44:2153 (December 2018).

Chapter 15. Residential

§1501. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:94 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), repealed LR 44:2154 (December 2018).

§1503. Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:94 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), repealed LR 44:2154 (December 2018).

§1505. Exceptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:94 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), LR 40:2577 (December 2014), repealed LR 44:2154 (December 2018).

§1507. Violations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:95 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), repealed LR 44:2154 (December 2018).

§1509. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Licensing Board for Contractors, LR 22:95 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), LR 40:2577 (December 2014), repealed LR 44:2154 (December 2018).

§1511. Home Improvement Registration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 38:813 (March 2012), amended LR 40:2577 (December 2014), repealed LR 44:2154 (December 2018).

§1513. New Home Warranty Act

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 38:813 (March 2012), repealed LR 44:2154 (December 2018).

§1515. Specialty Classifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 42:52 (January 2016), repealed LR 44:2154 (December 2018).

§1517. Labor Only

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 42:52 (January 2016), repealed LR 44:2154 (December 2018).

Michael McDuff
Executive Director

1812#013

RULE

Department of Health
Board of Medical Examiners

Uniform Prescription Drug Prior Authorization Form
(LAC 46:XLV.8001 and 8003)

The Louisiana Administrative Procedure Act, R.S. 49:950 et seq., pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261 et seq., the Louisiana State Board of Medical Examiners (Board) has adopted a new Rule establishing the Louisiana Uniform Prescription Drug Prior Authorization Form. This rule-making effort is required by Act 423, of the 2018 Regular Session of the Legislature, and is in collaboration with the Louisiana Board of Pharmacy. This Rule is hereby adopted on the day of promulgation. The Rule is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 80. Louisiana Uniform Prescription Drug Prior Authorization Form
Subchapter A. General Provisions

§8001. Louisiana Uniform Prescription Drug Prior Authorization; Requirements; Referral for Enforcement

A. A prescriber or pharmacy required to obtain prior authorization from a third party payor shall complete the Louisiana Uniform Prescription Drug Prior Authorization Form referenced below in §8003, either in written form or its electronic equivalent.

B. In the event a third party payor demands the completion of an alternative authorization process, the prescriber or pharmacy shall refer the demand to the appropriate enforcement agency.

1. If the demand is made by a Medicaid-managed care organization, the prescriber or pharmacy shall refer the demand to the Department of Health.

2. If the demand is made by any other third party payor, the prescriber or pharmacy shall refer the demand to the Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:2154 (December 2018).

§8003. Louisiana Uniform Prescription Drug Prior Authorization Form

LOUISIANA UNIFORM PRESCRIPTION DRUG PRIOR AUTHORIZATION FORM

SECTION I - SUBMISSION

Submitted to:	Phone:	Fax:	Date:

SECTION II - PRESCRIBER INFORMATION

Last Name, First Name MI:		NPI# or Plan Provider #:	Specialty:	
Address:		City:	State:	ZIP Code:
Phone:	Fax:	Office Contact Name:	Contact Phone:	

SECTION III - PATIENT INFORMATION

Last Name, First Name MI:	DOB:	Phone:	☐ Male ☐ Female ☐ Other ☐ Unknown
Address:	City:	State:	ZIP Code:
Plan Name (if different from Section I):	Member or Medicaid ID #:	Plan Provider ID:	

Patient is currently a hospital inpatient getting ready for discharge? ____ Yes ____ No Date of Discharge:_____
Patient is being discharged from a psychiatric facility? ____ Yes ____ No Date of Discharge:_____
Patient is being discharged from a residential substance use facility? ____ Yes ____ No Date of Discharge:_____
Patient is a long-term care resident? ____ Yes ____ No If yes, name and phone number:_____
EPSDT Support Coordinator contact information, if applicable:

SECTION IV - PRESCRIPTION DRUG INFORMATION

Requested Drug Name:

Strength:	Dosage Form:	Route of Admin:	Quantity:	Days' Supply:	Dosage Interval/Directions for Use:	Expected Therapy Duration/Start Date:

To the best of your knowledge this medication is: _____New therapy/Initial request
_____Continuation of therapy/Reauthorization request

For Provider Administered Drugs only:

HCPCS/CPT-4 Code:_____NDC#:_____Dose Per Administration:_____

Other Codes:_____

Will patient receive the drug in the physician's office? ____Yes ____No

– If no, list name and NPI of servicing provider/facility: _____

SECTION V - PATIENT CLINICAL INFORMATION

Primary diagnosis relevant to this request:	ICD-10 Diagnosis Code:	Date Diagnosed:
Secondary diagnosis relevant to this request:	ICD-10 Diagnosis Code:	Date Diagnosed:

For pain-related diagnoses, pain is: _____Acute _____Chronic
For postoperative pain-related diagnoses: Date of Surgery_____

Pertinent laboratory values and dates (attach or list below):

Date	Name of Test	Value

SECTION VI - THIS SECTION FOR OPIOID MEDICATIONS ONLY

Does the quantity requested exceed the max quantity limit allowed? ___Yes ___No (If yes, provide justification below.)
Cumulative daily MME_____
Does cumulative daily MME exceed the daily max MME allowed? ___Yes ___No (If yes, provide justification below.)

	YES (True)	NO (False)		THE PRESCRIBER ATTESTS TO THE FOLLOWING:
SHORT AND LONG-ACTING OPIOIDS			A	A complete **assessment** for pain and function was performed for this patient.
			B	The patient has been **screened for substance abuse / opioid dependence**. (Not required for recipients in long-term care facility.)
			C	The **PMP** will be accessed **each** time a controlled prescription is written for this patient.
			D	A **treatment plan** which includes current and previous goals of therapy for both pain and function has been developed for this patient.
			E	**Criteria** for failure of the opioid trial and for stopping or continuing the opioid has been established and explained to the patient.
			F	**Benefits and potential harms** of opioid use have been discussed with this patient.
			G	An **Opioid Treatment Agreement** signed by both the patient and prescriber is on file. (Not required for recipients in long-term care facility.)
LONG-ACTING OPIOIDS			H	The patient requires continuous **around the clock** analgesic therapy for which alternative treatment options have been inadequate or have not been tolerated.
			I.	Patient previously utilized at least two weeks of short-acting opioids for this condition. Please enter drug(s), dose, duration and date of trial in pharmacologic/non-pharmacologic treatment section below.
			J.	Medication has **not** been prescribed to treat acute pain, mild pain, or pain that is not expected to persist for an extended period of time.
			K	Medication has **not** been prescribed for use as an as-needed (PRN) analgesic.
			L.	Prescribing information for requested product has been **thoroughly reviewed** by prescriber.

IF NO FOR **ANY** OF THE ABOVE (A-L), PLEASE EXPLAIN:

SECTION VII - PHARMACOLOGIC & NON-PHARMACOLOGIC TREATMENT(S) USED FOR THIS DIAGNOSIS (BOTH PREVIOUS & CURRENT):

Drug name	Strength	Frequency	Dates Started and Stopped or Approximate Duration	Describe Response, Reason

Drug Allergies:	Height (if applicable):	Weight (if applicable):

Is there clinical evidence or patient history that suggests the use of the plan's pre-requisite medication(s), e.g. step medications, will be ineffective or cause an adverse reaction to the patient? ____Yes ____No (If yes, please explain in Section VIII below.)

SECTION VIII - JUSTIFICATION (SEE INSTRUCTIONS)

By signing this request, the prescriber attests that the information provided herein is true and accurate to the best of his/her knowledge. Also, by signing and submitting this request form, the prescriber attests to statements in the 'Attestation' section of the criteria specific to this request, if applicable.

Signature of Prescriber:_____ Date:_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:2155 (December 2018).

Vincent A. Culotta, Jr., M.D.
Executive Director

1812#012

RULE

Department of Health
Board of Pharmacy

Uniform Prescription Drug Prior Authorization Form
(LAC 46:LIII.1129 and 1130)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and as directed by Act 423 of the 2018 Louisiana legislature, the Board of Pharmacy has promulgated this Rule establishing a uniform prescription drug prior authorization form to be used by all payors doing business in the state when prior authorizations for prescription drugs are required. This Rule will become effective on January 1, 2019.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists

Chapter 11. Pharmacies
Subchapter B. Pharmacy Records

§1129. Louisiana Uniform Prescription Drug Prior Authorization Form; Requirements; Referral for Enforcement

A. A prescriber or pharmacy required to obtain prior authorization from a third party payor shall complete the Louisiana Uniform Prescription Drug Prior Authorization Form referenced below in Section 1130, either in written form or its electronic equivalent.

B. In the event a third party payor demands the completion of an alternative authorization process, the prescriber or pharmacy shall refer the demand to the appropriate enforcement agency.

1. If the demand is made by a Medicaid managed care organization, the prescriber or pharmacy shall refer the demand to the Dept. of Health.

2. If the demand is made by any other third party payor, the prescriber or pharmacy shall refer the demand to the Dept. of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 44:2157 (December 2018), effective January 1, 2019.

§1130. Louisiana Uniform Prescription Drug Prior Authorization Form

LOUISIANA UNIFORM PRESCRIPTION DRUG PRIOR AUTHORIZATION FORM

SECTION I - SUBMISSION

Submitted to:	Phone:	Fax:	Date:

SECTION II - PRESCRIBER INFORMATION

Last Name, First Name MI:		NPI# or Plan Provider #:	Specialty:	
Address:		City:	State:	ZIP Code:
Phone:	Fax:	Office Contact Name:	Contact Phone:	

SECTION III - PATIENT INFORMATION

Last Name, First Name MI:	DOB:	Phone:	☐ Male ☐ Female ☐ Other ☐ Unknown
Address:	City:	State:	ZIP Code:
Plan Name (if different from Section I):	Member or Medicaid ID #:	Plan Provider ID:	

Patient is currently a hospital inpatient getting ready for discharge? ____ Yes ____ No Date of Discharge:_____
Patient is being discharged from a psychiatric facility? ____ Yes ____ No Date of Discharge:_____
Patient is being discharged from a residential substance use facility? ____ Yes ____ No Date of Discharge:_____
Patient is a long-term care resident? ____ Yes ____ No If yes, name and phone number:_____
EPSDT Support Coordinator contact information, if applicable:

SECTION IV - PRESCRIPTION DRUG INFORMATION

Requested Drug Name:

Strength:	Dosage Form:	Route of Admin:	Quantity:	Days' Supply:	Dosage Interval/Directions for Use:	Expected Therapy Duration/Start Date:

To the best of your knowledge this medication is: _____New therapy/Initial request
_____Continuation of therapy/Reauthorization request

For Provider Administered Drugs only:

HCPCS/CPT-4 Code:_____NDC#:_____Dose Per Administration:_____

Other Codes:_____

Will patient receive the drug in the physician's office? ____Yes ____No

– If no, list name and NPI of servicing provider/facility: _____

SECTION V - PATIENT CLINICAL INFORMATION

Primary diagnosis relevant to this request:	ICD-10 Diagnosis Code:	Date Diagnosed:
Secondary diagnosis relevant to this request:	ICD-10 Diagnosis Code:	Date Diagnosed:

For pain-related diagnoses, pain is: _____Acute _____Chronic
For postoperative pain-related diagnoses: Date of Surgery_____

Pertinent laboratory values and dates (attach or list below):

Date	Name of Test	Value

SECTION VI - THIS SECTION FOR OPIOID MEDICATIONS ONLY

Does the quantity requested exceed the max quantity limit allowed? ___Yes ___No (If yes, provide justification below.)
Cumulative daily MME_____
Does cumulative daily MME exceed the daily max MME allowed? ___Yes ___No (If yes, provide justification below.)

	YES (True)	NO (False)		THE PRESCRIBER ATTESTS TO THE FOLLOWING:
SHORT AND LONG-ACTING OPIOIDS			M.	A complete **assessment** for pain and function was performed for this patient.
			N.	The patient has been **screened for substance abuse / opioid dependence**. (Not required for recipients in long-term care facility.)
			O.	The **PMP** will be accessed **each** time a controlled prescription is written for this patient.
			P.	A **treatment plan** which includes current and previous goals of therapy for both pain and function has been developed for this patient.
			Q.	**Criteria** for failure of the opioid trial and for stopping or continuing the opioid has been established and explained to the patient.
			R.	**Benefits and potential harms** of opioid use have been discussed with this patient.
			S.	An **Opioid Treatment Agreement** signed by both the patient and prescriber is on file. (Not required for recipients in long-term care facility.)
LONG-ACTING OPIOIDS			T.	The patient requires continuous **around the clock** analgesic therapy for which alternative treatment options have been inadequate or have not been tolerated.
			U.	Patient previously utilized at least two weeks of short-acting opioids for this condition. Please enter drug(s), dose, duration and date of trial in pharmacologic/non-pharmacologic treatment section below.
			V.	Medication has **not** been prescribed to treat acute pain, mild pain, or pain that is not expected to persist for an extended period of time.
			W.	Medication has **not** been prescribed for use as an as-needed (PRN) analgesic.

			X.	Prescribing information for requested product has been **thoroughly reviewed** by prescriber.
IF NO FOR **ANY** OF THE ABOVE (A-L), PLEASE EXPLAIN:				

SECTION VII - PHARMACOLOGIC & NON-PHARMACOLOGIC TREATMENT(S) USED FOR THIS DIAGNOSIS (BOTH PREVIOUS & CURRENT):

Drug name	Strength	Frequency	Dates Started and Stopped or Approximate Duration	Describe Response, Reason
Drug Allergies:			Height (if applicable):	Weight (if applicable):
Is there clinical evidence or patient history that suggests the use of the plan's pre-requisite medication(s), e.g. step medications, will be ineffective or cause an adverse reaction to the patient? ____Yes ____No (If yes, please explain in Section VIII below.)				

SECTION VIII - JUSTIFICATION (SEE INSTRUCTIONS)

By signing this request, the prescriber attests that the information provided herein is true and accurate to the best of his/her knowledge. Also, by signing and submitting this request form, the prescriber attests to statements in the 'Attestation' section of the criteria specific to this request, if applicable.

Signature of Prescriber:_____ Date:_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 44:2157 (December 2018), effective January 1, 2019.

Malcolm J Broussard
Executive Director

1812#010

RULE

Department of Health
Bureau of Health Services Financing

Expedited Licensing Process for Healthcare Facilities and Providers (LAC 48:I.Chapter 41)

The Department of Health, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 41 as authorized by R.S. 36:254 and R.S. 40:2006.2. 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 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 41. Expedited Licensing Process for Healthcare Facilities and Providers Licensed by the Department of Health

§4101. Definitions

Applicant—any person, partnership, corporation, unincorporated association or other legal entity currently operating, or planning to operate, any of the health care facilities or providers licensed by the Department of Health.

Applicant Representative—the person specified by the applicant on the application form authorized to respond to inquiries from the Department of Health regarding the expedited licensing process and to whom written notifications are sent relative to the status of the expedited licensing application.

Approval—a determination by the Department of Health that an application meets the criteria of the expedited licensing process.

Department—the Louisiana Department of Health (LDH).

Health Standards Section (HSS)—the section in the Department of Health responsible for licensing health care facilities and agencies, certifying facilities and agencies that apply for participation in the Medicaid (titles XIX and XXI) and Medicare (title XVIII) programs, and conducting surveys and inspections.

Licensing—deemed to include initial licensing of a provider or facility, licensure upon a change of ownership, licensing due to relocation or replacement facility, or licensing due to adding locations, off-sites, satellites, beds, units, fleet additions or services.

Notification—deemed to be given on the date on which an applicant representative receives notice from LDH of the expedited license determination, either electronically or by certified mail to the last known address of the applicant representative.

Readiness Date—the date that the applicant indicates to the HSS field office assigned scheduler that the facility or provider is ready for the licensing survey to be conducted by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 44:2159 (December 2018).

§4103. General Provisions

A. Any person, partnership, corporation, unincorporated association or other legal entity currently operating, or planning to operate, any of the health care facilities or providers licensed by the department may seek an expedited licensing process as provided for in this Chapter.

B. The provisions of this Chapter shall apply to an applicant provider or facility for any of the health care facility or provider types licensed by the department.

C. The expedited licensing process provided for in this Chapter is at the discretion of the applicant provider or facility requesting such expedited process.

1. A request for the expedited licensing process is voluntary.

2. An applicant provider or facility shall not be delayed from the usual licensing and/or survey scheduling process and timeframe, if the expedited licensing process is not requested.

D. The department shall ensure that no applicant provider or facility seeking approval to apply for licensure pursuant to a pre-licensing facility need review approval process is affected by another provider of the same license type choosing the expedited licensing process instead of the regular licensing process.

E. The department shall not utilize existing employees who conduct regular licensing surveys to conduct any expedited licensing survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:2160 (December 2018).

§4105. Expedited Licensing Applications and Fees

A. Requests for expedited licensing applications shall be submitted to the LDH Health Standards Section (HSS) on the forms indicated for that purpose, containing such information as the department may require, and shall be accompanied by the specified fee as established in Paragraph E of this Section.

B. The applicant shall designate a representative on the expedited licensing process application.

1. The designated applicant representative shall be the only person to whom HSS will send written notification in matters relative to the status of the expedited licensing process.

2. If the applicant representative or his/her address changes at any time during the licensing process, it is the responsibility of the applicant to notify HSS in writing of such change.

C. Documentation and correspondence related to the expedited licensing process may be submitted and received via electronic transmission to shorten the timeframe of the process.

D. The expedited licensing process fee is required at the time that the application is submitted to the department. The expedited licensing process fee shall be:

1. made payable to the Louisiana Department of Health; and

2. made in the manner required by the department on the expedited licensing process application.

E. The expedited licensing process fee shall be determined by the complexity and acuity of the requested licensing process and shall be assessed on a tiered basis pursuant to §4107 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:2160 (December 2018).

§4107. Expedited Licensing Survey Types and Tiers

A. The fees associated with the expedited licensing process shall be assessed according to the following tiers.

1. Tier 1. Expedited licensing fee is set at $7,000.
2. Tier 2. Expedited licensing fee is set at $6,000.
3. Tier 3. Expedited licensing fee is set at $5,000.

B. Tier 1 expedited licensing processes include, but are not limited to, the following:

1. initial licensing of a hospital or off-site location of a hospital;

2. licensing of a replacement facility or location (or relocation) of the main campus of a hospital;

3. licensing of a replacement facility or location (or relocation) of an off-site campus of a hospital that has any of the following:

a. licensed beds;

b. surgical services; or

c. an emergency department; and

4. initial licensing of the following:

a. an ambulatory surgical center (ASC);

b. an end stage renal disease (ESRD) facility;

c. a rural health clinic (RHC);

d. a nursing facility (NF); or

e. a home and community-based services (HCBS) provider or an off-site or satellite location of the provider.

C. Tier 2 expedited licensing processes include, but are not limited to, the following:

1. initial licensing of the following:

a. an adult residential care provider (ARCP) level 1, 2, 3 or 4;

b. a crisis receiving center (CRC);

c. an intermediate care facility for people with developmental disabilities (ICF/DD);

d. a pediatric day health care (PDHC) facility;

e. a home health agency (HHA) or an off-site or satellite location of a HHA;

f. a hospice agency, an off-site or satellite location of a hospice agency or an inpatient hospice facility;

g. a psychiatric residential treatment facility (PRTF);

h. a therapeutic group home (TGH);

i. a behavioral health services provider (BHSP);

j. an adult day health care (ADHC) facility;

k. a forensic supervised transitional residential and aftercare (FSTRA) facility;

l. a pain management clinic (PMC);

m. an adult brain injury (ABI) facility;

n. an emergency medical transportation services (EMTS) provider; or

o. any other provider or facility licensed by LDH;

2. licensing of a replacement facility or location (or relocation) of the following:

a. an ASC;

b. an ESRD facility;

c. an RHC;

d. a CRC;

e. a NF; or

f. an HCBS provider or an off-site or satellite location of the provider; and

3. licensing of additional units, services or beds, or other action at an existing licensed hospital, ASC, ESRD facility or NF that requires a physical environment survey.

D. Tier 3 expedited licensing processes include, but are not limited to, the following:

1. licensing of a replacement facility (or relocation) for the following:

a. an ICF/DD;

b. a PDHC;

c. an ADHC facility;

d. an ARCP level 1, 2, 3 or 4;

e. an HHA or an off-site or satellite location of a HHA;

f. a hospice agency or an off-site or satellite location of hospice agency or an inpatient hospice facility;

g. a PRTF;

h. a TGH;

i. a BHSP;

j. a FSTRA facility;

k. a PMC;

l. an ABI facility; or

m. any other provider or facility licensed by LDH; and

2. licensing additional units, services, beds, or other action an existing licensed ICF/DD, PDHC, HCBS provider, ADHC center, ARCP (levels 1, 2, 3 and 4), PRTF, TGH, BHSP, CRC, FSTRA facility, ABI facility, or other provider or facility licensed by the department that requires a physical environment survey, or a fleet addition for an EMTS provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:2160 (December 2018).

§4109. Expedited Licensing Application Review Process

A. If an applicant provider or facility submits an expedited licensing process application and pays all applicable fees in the required manner, the department shall prioritize the application. After priority review of the application, the department shall:

1. notify the applicant provider or facility of any missing documentation or information; or

2. notify the applicant of the approval of the completed expedited licensing application packet.

B. The department shall notify the applicant representative, upon approval of the completed expedited licensing application packet, that the applicant shall provide a readiness date for the expedited survey to the appropriate HSS field office.

C. The applicant shall not contact the HSS field office to schedule the expedited survey until notified of approval as provided for in Paragraphs A and B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:2161 (December 2018).

§4111. Expedited Licensing Survey Process

A. Once the expedited licensing application packet has been approved, the department shall conduct the expedited licensing survey within 10 working days of the readiness date indicated by the applicant provider or facility, or such other time period to which the provider has agreed.

B. The expedited licensing survey shall be conducted in accordance with this Subchapter and applicable published licensing statutes, rules and regulations for the particular health care provider or facility type for which the applicant has applied.

C. The expedited licensing survey shall be scheduled and conducted in an expedited manner pursuant to the usual survey process, protocols and procedure.

D. The department shall provide written notification to the applicant representative of the results of the expedited licensing survey within 10 working days of the survey exit date. This notification may be made by electronic transmission.

1. The written notification of the expedited survey results shall include any licensing deficiencies, requirements for a plan of correction, and review and/or appeal rights as to the deficiencies, if applicable, pursuant to applicable licensing statutes, rules and regulations.

2. If deficiencies are cited at the expedited licensing survey, the department may, at its option:

a. require a plan of correction and conduct a follow-up licensing survey;

b. issue a provisional license, pursuant to applicable licensing regulations; or

c. issue a license denial, including appeal rights, pursuant to applicable licensing regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:2161 (December 2018).

§4113. Expedited Licensing Survey Refunds

A. The department shall refund the expedited licensing process fee amount paid by an applicant provider or facility if the survey is not conducted within the time periods specified in §4111.A, unless such failure to conduct the survey is due to the unavailability of the facility or provider.

B. If the applicant facility or provider fails to be ready when the department begins to conduct the expedited licensing survey, the survey will be ended, no refund of the expedited licensing fee will be due, and the applicant facility or provider shall have the choice to:

1. re-submit a new expedited licensing process application and applicable fee; or

2. submit a regular licensing process application and applicable fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:2162 (December 2018).

Rebekah E. Gee MD, MPH
Secretary

1812#058

RULE

Department of Health
Bureau of Health Services Financing

Federally Qualified Health Centers
Reimbursement Methodology
Mammography Separate Payments
(LAC 50:XI.10703)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XI.10703 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 XI. Clinic Services
Subpart 13. Federally-Qualified Health Centers
Chapter 107. Reimbursement Methodology
§10703. Alternate Payment Methodology

A. - C. ...

D. Effective for dates of service on or after January 1, 2019, FQHCs shall be reimbursed a separate payment outside of the prospective payment system (PPS) rate for the following services:

1. - 1.a. …

2. Mammogram Screening and Diagnosis

a. Reimbursement for mammogram screening and diagnostics shall be a flat fee on file based on Medicaid covered current procedural terminology (CPT) code(s), in addition to the PPS rate for the associated encounter/office visit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 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

1812#059

RULE

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

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
(LAC 50:XXI.Chapters 21-27)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XXI.Chapters 21-27 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 3. Adult Day Health Care Waiver
Chapter 21. General Provisions
§2101. Introduction

A. These standards for participation specify the requirements of the Adult Day Health Care (ADHC) Waiver Program. The program is funded as a waived service under the provisions of Title XIX of the Social Security Act and is administrated by the Department of Health (LDH).

B. - C. ...

D. Each individual who requests ADHC waiver services has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the individual to act on his/her behalf in the process of accessing and/or maintaining ADHC waiver services.

1. The appropriate form authorized by the Office of Aging and Adult Services (OAAS) shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not take away the right of the individual

to continue to transact business on his/her own behalf nor does it give the representative any legal authority other than as specified in the designation form.

b. The written designation is valid until revoked by the individual granting the designation.

i. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist and represent the individual in the assessment, care plan development and service delivery processes; and

b. aid the participant in obtaining all of the necessary documentation for these processes.

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 including:

a. the Program of All-Inclusive Care for the Elderly;

b. long-term personal care services (LT-PCS);

c. the Community Choices Waiver; and

d. the Adult Day Health Care Waiver.

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 Human Resources, Office of Family Security, LR 11:623 (June 1985), repromulgated LR 13:181 (March 1987),amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), repromulgated LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2161 (October 2008), repromulgated LR 34:2565 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2494 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2162 (December 2018).

§2105. Request for Services Registry [Formerly §2107]

A. The Department of Health is responsible for the Request for Services Registry, hereafter referred to as "the registry", for the ADHC Waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll free telephone number, which shall be maintained by LDH.

B. Individuals who desire their name to be placed on the ADHC waiver registry shall be screened to determine whether they:

1. meet nursing facility level of care; and

2. are members of the target population as identified in the federally-approved waiver document.

C. Only individuals who pass the screening in §2105.B shall be added to the registry.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2256 (December 2006), LR 34:2161 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2495 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2163 (December 2018).

§2107. Programmatic Allocation of Waiver Opportunities

A. When funding is appropriated for a new ADHC waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available. That individual shall be evaluated for a possible ADHC waiver opportunity assignment.

B. Adult day health care waiver opportunities shall be offered to individuals on the registry according to priority groups. The following groups shall have priority for ADHC waiver opportunities in the order listed:

1. individuals with substantiated cases of abuse or neglect referred by protective services who, without ADHC waiver services, would require institutional placement to prevent further abuse and neglect;

2. individuals who have been discharged after a hospitalization within the past 30 calendar days that involved a stay of at least one night;

3. individuals admitted to, or residing in, a nursing facility who have Medicaid as the sole payer source for the nursing facility stay; and

B.4. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2624 (September 2011), LR 39:2495 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2163 (December 2018).

Chapter 23. Services

§2301. Covered Services

A. The following services are available to participants in the ADHC Waiver. All services must be provided in accordance with the approved plan of care (POC). No services shall be provided until the POC has been approved.

1. Adult Day Health Care. Services furnished as specified in the POC at a licensed ADHC center, in a non-institutional, community-based setting encompassing both health/medical and social services needed to ensure the optimal functioning of the participant. Services are furnished on a regularly scheduled basis, not to exceed 10 hours a day, 50 hours a week. ADHC services include those core service requirements identified in the ADHC licensing standards (LAC 48:I.4243) in addition to:

a. medical care management; and

b. transportation to and from medical and social activities (if the participant is accompanied by the ADHC center staff).

c. - j. Repealed.

2. Support Coordination. These services assist participants in gaining access to necessary waiver and other state plan services, as well as needed medical, social, educational, housing, and other services, regardless of the funding source for these services. Support coordination

agencies shall be required to perform the following core elements of support coordination services:

a. ...

b. assessment and reassessment;

c. ...

d. follow-up/monitoring;

e. critical incident management; and

f. transition/discharge and closure.

g. - l. Repealed.

3. Transition Intensive Support Coordination. These services will assist participants currently residing in nursing facilities in gaining access to needed waiver and other state plan services, as well as needed medical, social, housing, educational and other services regardless of the funding source for these services. Support coordinators shall initiate and oversee the process for assessment and reassessment, as well as be responsible for ongoing monitoring of the provision of services included in the participants approved POC.

a. This service is paid up to six months prior to transitioning from the nursing facility when adequate pre-transition supports and activities are provided and documented.

b. The scope of transition intensive support coordination shall not overlap with the scope of support coordination.

c. Support coordinators may assist participants to transition for up to six months while the participants still resides in the facility.

4. Transition Services. These services are time limited, non-recurring set-up expenses available for individuals who have been offered and approved for an ADHC waiver opportunity and are transitioning from a nursing facility to a living arrangement in a private residence where the individual is directly responsible for his/her own expenses.

a. Allowable expense are those necessary to enable the individual to establish a basic household (excluding expenses for room and board) including, but not limited to:

i. security deposits that are required to obtain a lease on an apartment or house;

ii. specific set up fees or deposits

iii. activities to assess need, arrange for and procure needed resources;

iv. essential furnishings to establish basic living arrangements; and

v. health, safety, and welfare assurances.

b. These services must be prior approved in the participant's plan of care.

c. These services do not include monthly rental, mortgage expenses, food, recurring monthly utilities charges and household appliances and/or items intended for purely diversional/recreational purposes.

d. These services may not be used to pay for furnishings or set-up living arrangements that are owned or leased by a waiver provider.

e. Support coordinators shall exhaust all other resources to obtain these items prior to utilizing the waiver.

f. Funds are available up to the lifetime maximum amount identified in the federally-approved waiver document.

B. - 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 Human Resources, Office of Family Security, LR 11:623 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended LR 25:1100 (June 1999), repromulgated LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2495 (September 2013), 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 44:2163 (December 2018).

§2303. Individualized Service Plan

A. All participants shall have an ADHC individualized service plan (ISP) written in accordance with ADHC licensing standards (LAC 48:I.4281).

1. - 15. 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 Human Resources, Office of Family Security, LR 11:623 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 13:181 (March 1987), LR 23:1150, 1156 and 1163 (September 1997), LR 28:2356 (November 2002), repromulgated LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2567 (December 2008), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2164 (December 2018).

§2305. Plan of Care

A. The applicant and support coordinator have the flexibility to construct a plan of care (POC) that serves the participant's health, safety and welfare needs. The service package provided under the POC shall include services covered under the Adult Day Health Care Waiver, Medicaid State Plan services, and any other services, regardless of the funding source.

A.1. - B. ...

C. The POC shall contain the:

1. types and number of services (including waiver and all other services) necessary to reasonably assure health and welfare and to maintain the individual in the community;

2. individual cost of each waiver service; and

3. total cost of waiver services covered by the POC.

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 39:2496 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2164 (December 2018).

Chapter 25. Admission and Discharge Criteria

§2501. Admission Criteria

A. Admission to the ADHC Waiver Program shall be determined in accordance with the following criteria:

1. ...

2. initial and continued Medicaid eligibility;

3. initial and continued eligibility for nursing facility level of care;

4. ...

5. reasonable assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of ADHC waiver services.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:626 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1153 (September 1997), repromulgated LR 30:2040 (September 2004), amended by the Department Of Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2496 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2164 (December 2018).

§2503. Admission Denial or Discharge Criteria

A. Admission shall be denied or the participant shall be discharged from the ADHC Waiver Program if any of the following conditions are determined.

1. The individual does not meet the target population criteria as specified in the federally approved waiver document.

2. The individual does not meet the criteria for Medicaid eligibility.

3. The individual does not meet the criteria for nursing facility level of care.

4. The individual resides in another state or the participant has a change of residence to another state.

5. Continuity of services is interrupted as a result of the participant not receiving and/or refusing ADHC waiver services (exclusive of support coordination services) for a period of 30 consecutive days.

a. Exceptions may be granted by OAAS to delay discharge if interruption is due to an acute care hospital, rehabilitation hospital, or nursing facility admission.

6. The health, safety and welfare of the individual cannot be assured through the provision of ADHC waiver services.

7. The individual/participant fails to cooperate in the eligibility determination process, POC development, or in the performance of the POC.

8. It is not cost effective or appropriate to serve the individual in the ADHC Waiver.

9. The participant fails to attend the ADHC center for a minimum of 36 days per calendar quarter.

10. The participant fails to maintain a safe and legal home environment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2496 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2165 (December 2018).

Chapter 27. Provider Responsibilities

§2701. General Provisions

A. Each ADHC center shall:

1. be licensed by the Department of Health, Health Standards Section, in accordance with LAC 48:I.Chapter 42;

2. enroll as an ADHC Medicaid provider;

3. enter into a provider agreement with the department to provide services; and

4. agree to comply with the provisions of this Rule.

B. The provider shall not request payment unless the participant for whom payment is requested is receiving services in accordance with the ADHC Waiver program provisions and the services have been prior authorized and delivered.

C. Adult day health care waiver providers shall not refuse to serve any participant who chooses their agency unless there is documentation to support an inability to meet the participant's health, safety and welfare needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

1. - 2. ...

D. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and will provide said documentation at the request of the department, or its designee.

E. Adult day health care providers shall not interfere with the eligibility, assessment, care plan development or care plan monitoring processes with use of methods including, but not limited to:

1. harassment;

2. intimidation; or

3. threats against program participants, members of the participant's informal support network, LDH staff, or support coordination staff.

F. Adult day health care providers shall have the capacity and resources to provide all aspects of the services they are enrolled to provide in the specified licensed service area.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:627 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1155 (September 1997), LR 24:457 (March 1998), repromulgated LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office for Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2568 (December 2008),), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2497 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2165 (December 2018).

§2703. Reporting Requirements

A. Support coordinators and direct service providers, including ADHC providers, are obligated to immediately

report any changes to the department that could affect the waiver participant's eligibility including, but not limited to, those changes cited in the denial or discharge criteria listed in §2503.

B. Support coordinators and direct service providers, including ADHC providers, are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and welfare of the participant and completing an incident report. The incident report shall be submitted to the department or its designee with the specified requirements within specified time lines.

C. ...

D. Adult day health care providers shall provide the participant's approved individualized service plan to the support coordinator in a timely manner.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2497 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2165 (December 2018).

§2705. Electronic Visit Verification

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:74 (January 2017), repealed by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2166 (December 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

1812#060

RULE

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

Nursing Facilities
Continued Stay Requests
(LAC 50:II.503)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:II.503 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 II. Nursing Facilities
Subpart 1. General Provisions
Chapter 5. Admissions
§503. Medical Certification

A. - A.1.b. ...

2. Continued Stay Requests

a. - a.i. ...

ii. documentation to support the request for continued stay, including the most recent MDS 3.0. A LOCET will not be accepted as sufficient evidence of medical need for an individual who has been discharged for a period of less than 14 calendar days unless:

a.ii.(a) - b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:1011 (May 2010), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:1179 (June 2017), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:1179 (June 2017), LR 44:1018 (June 2018), LR 44:2166 (December 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

1812#061

RULE

Department of Health
Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals and
Children's Specialty Hospitals
Reimbursement Rate Increase
(LAC 50:V.5313, 5317, 5513, 5517,
5713, 5719, 5913, 5917, 6115 and 6119)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.5313, §5317, §5513, §5517, §5713, §5719, §5913, §5917, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospitals
Subpart 5. Outpatient Hospitals
Chapter 53. Outpatient Surgery
Subchapter B. Reimbursement Methodology
§5313. Non-Rural, Non-State Hospitals

A. - J.1. ...

K. Effective for dates of service on or after January 1, 2019, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be increased by 11.56 percent of the rates on file as of December 31, 2018.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:2534 (December 2017), LR 44:2166 (December 2018).

§5317. Children's Specialty Hospitals

A. - H.1. ...

I. Effective for dates of service on or after January 1, 2019, the reimbursement rates paid to children's specialty hospitals for outpatient surgery shall be increased by 5.26 percent of the rates on file as of December 31, 2018.

1. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2534 (December 2017), LR 44:2167 (December 2018).

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - J.1. ...

K. Effective for dates of service on or after January 1, 2019, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be increased by 11.56 percent of the rates on file as of December 31, 2018.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2167 (December 2018).

§5517. Children's Specialty Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2019, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be increased by 5.26 percent of the rates on file as of December 31, 2018.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2167 (December 2018).

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - J.1. ...

K. Effective for dates of service on or after January 1, 2019, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be increased by 11.56 percent of the rates on file as of December 31, 2018.

1. In accordance with Section 1903(i)(7) of the Social Security Act, payments for Medicaid clinical diagnostic laboratory services shall be limited to the amount that Medicare pays on a per test basis. If this or any other rate adjustment causes the Medicaid calculated rate to exceed the Medicare payment rate for a clinical laboratory test, the rate shall be adjusted to the lower Medicare payment rate.

2. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2167 (December 2018).

§5719. Children's Specialty Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2019, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be increased by 5.26 percent of the rates on file as of December 31, 2018.

1. In accordance with Section 1903(i)(7) of the Social Security Act, payments for Medicaid clinical diagnostic laboratory services shall be limited to the amount that Medicare pays on a per test basis. If this or any other rate adjustment causes the Medicaid calculated rate to exceed the Medicare payment rate for a clinical laboratory test, the rate shall be adjusted to the lower Medicare payment rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2167 (December 2018).

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5913. Non-Rural, Non-State Hospitals

A. - D. ...

E. Effective for dates of service on or after January 1, 2019, the reimbursement rates paid to non-rural, non-state hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be increased by 11.56 percent of the rates on file as of December 31, 2018.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2043 (September 2010), LR 44:2167 (December 2018).

§5917. Children's Specialty Hospitals

A. - B.1.…

C. Effective for dates of service on or after January 1, 2019, the reimbursement rates paid to children's specialty hospitals for outpatient rehabilitation services provided to recipients over the age of three years shall be increased by 5.26 percent of the rates on file as of December 31, 2018.

1. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2043 (September 2010), LR 44:2168 (December 2018).

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - J.1. ...

K. Effective for dates of service on or after January 1, 2019, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services, other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees, shall be increased by 11.56 percent of the rates in effect as of December 31, 2018.

1. Final reimbursement shall be 83.18 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2168 (December 2018).

§6119. Children's Specialty Hospitals

A. - H.1. ...

I. Effective for dates of service on or after January 1, 2019, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services, other than rehabilitation services and outpatient hospital facility fees, shall be increased by 5.26 percent of the rates in effect as of December 31, 2018.

1. Final reimbursement shall be 97 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:2535 (December 2017), LR 44:2168 (December 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

1812#062

RULE

Department of Health
Bureau of Health Services Financing

Rural Health Clinics
Reimbursement Methodology
Mammography Separate Payments
(LAC 50:XI.16703)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XI.16703 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 XI. Clinic Services
Subpart 15. Rural Health Clinics

Chapter 167. Reimbursement Methodology

§16703. Alternate Payment Methodology

A. - C. ...

D. Effective for dates of service on or after January 1, 2019, RHCs shall be reimbursed a separate payment outside of the prospective payment system (PPS) rate for the following services:

1. - 1.a.…

2. Mammogram Screening and Diagnosis

a. Reimbursement for mammogram screening and diagnostics shall be a flat fee on file based on Medicaid covered current procedural terminology (CPT) code(s), in addition to the PPS rate for the associated encounter/office visit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 40:83 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1903 (October 2018), LR 44:2168 (December 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

1812#063

RULE

Department of Health
Physical Therapy Board

Licensing and Certification (LAC 46:LIV.Chapters 1-5)

The Louisiana Physical Therapy board, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:2405, has amended *Professional and Occupational Standards*, Physical Therapy Board, LAC 46:LIV 103, 105, 107, 111, 113, 119, 121, 123, 125, 129, 133, 135, 137, 139, 143, 145, 151, 157, 161, 163, 165, 167, 171, 172, 173, 175, 180, 181, 183, 185, 187, 195, 198, 303, 305, 307, 311, 313, 318, 321, 325, 330, 331, 333, 335, 337, 339, 341, 343, 345, 351, 357, 359, 365, 367, 369, 371, 373, 375 377, 379, 381, 383, 387, 392, and 501.

The amendments to LAC 46:LIV are mostly a clean-up effort to cite statutes and eliminate redundancy in language. The amendments to LAC 46:LIV.135-139 streamline the process for licensing foreign-trained physical therapists (PTs) and creates a process for licensing foreign-trained physical therapy assistants (PTAs) and military trained physical therapist assistants (PTAs). Section 151 was amended to eliminate the requirement for a face-to-face interview prior to obtaining a license and to require all initial applicants complete the state jurisprudence exam. Section 171 was amended to remove the mandate of remediation requirements for those who fail the examination by changing wording from "shall" to "may" regarding remediation recommendations for passing the national board exam. The board also set a limit for low score failed attempts to align with the national board examination limitations. Section 180 has been added to create a new license status of "inactive," allowing those not practicing physical therapy in the state of Louisiana to continue to renew their license but waive the continuing education requirements. Section 311 was amended to remove the requirement of 2-years' experience working as a licensed physical therapist prior to undertaking 50 hours of dry needling education and to change the process for documenting informed consent of patients. Section 318 adopts R.S. 40:1223.1 et seq., and corresponding amendments to govern telehealth in practice for physical therapy. Section 325 has been amended to provide exemptions to licensure to professionals in good standing from other jurisdictions in the United States or foreign trained. Section 333.B.2.a provides clarification for supervision of physical therapist assistants regarding initial evaluation of patients and delegation or subsequent treatment. Section 341 updates language regarding documentation standards for physical therapists and physical therapist assistants. Section 345 proposes structural changes, moving language as it exists from §373, Violations, to §345, Unprofessional Conduct, to help licensees navigate the rules better, while also adding the requirement of professionals to notify the board of felony convictions. If not noted here, the rules have no substantial change and have been changed mostly to cite existing law.

These amendments are in response to the decision made by the majority of members at the board meetings held January 24, 2018 and March 21, 2018. The basis and rationale for the Rule are to comply with R.S. 37:2405.

This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIV. Physical Therapy Examiners
Subpart 1. Licensing and Certification
Chapter 1. Physical Therapists and Physical Therapists Assistants
Subchapter A. Board Organization
§103. Board Domicile

A. Domicile. The board shall be domiciled in accordance with R.S. 37:2403(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2403(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, the Physical Therapy Board, LR 37:3031 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2169 (December 2018).

§105. Meetings
[Formerly §179]

A. Meetings. Meetings of the board shall be held at least six times a year to transact business. The board shall comply with R.S. 37:2404(A) when scheduling regular meetings, calling special meetings, and providing notice and waivers.

B. Location. Unless otherwise noticed, board meetings shall be held at the board office. The board may meet at other locations as determined by the board with notice of such location posted at least five days prior to the meeting date. The location of the meeting shall not be changed after such notice is given without reasonable notice of such change provided to all board members and to others who have requested such notification.

C. Quorum. The number of board members that constitute a quorum for any business before the board will be the number set in R.S. 37:2404(B). A majority vote of those present in a meeting is required for passage of a motion before the board.

D. Open Meetings. All board meetings and hearings shall be open to the public. The board may, in its discretion and according to R.S. 42:16-17, conduct any portion of its meeting in executive session, closed to the public and may request the participation in such executive session of staff members or others as may be needed for consideration of the business to be discussed in executive session.

E. Attendance. Board members are expected to attend regularly scheduled meetings, special meetings, open forums and hearings, which may be scheduled in conjunction or separate from regular scheduled meetings. Attendance constitutes active participation in at least 80 percent of the entire meeting. Missing two meetings per year is generally acceptable. Exceptions may be granted by the board for good cause. Notification of an expected absence shall be

submitted to the board office as early as possible prior to the commencement of the meeting.

F. Rules of Order. The most current edition of *Robert's Rules of Order* shall govern all proceedings of the board unless otherwise provided by board rules or policy.

G. Public Comments. A public comment period shall be held during each board meeting and in accordance with R.S. 42:19(D). Persons desiring to present comments shall notify the executive director of the board prior to the beginning of the meeting. However, to assure that an opportunity is afforded to all persons who desire to make comments, the chairman shall inquire at the beginning of the meeting if there are additional persons present who wish to comment. The chairman shall allot the time available for the public comments in an equitable manner among those persons desiring to comment. Each person making public comments shall identify himself and the group, organization, company, or entity he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2404(A), R.S. 37:2404(B), and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 26:1446 (July 2000), amended by the Physical Therapy Board, LR 37:3031 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2169 (December 2018).

§107. Officers

A. - D. …

E. Term. Officers of the board shall be elected in accordance with the schedule set forth in R.S. 37:2404(A) and shall serve a one-year term or until the election of their successors. An officer elected to a position vacated before the end of its term shall serve only for the remainder of that term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2404(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3032 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018).

§111. Compensation

A. Per Diem and Expenses. Per diem and expenses shall be provided in accordance to and as authorized by R.S. 37:2404(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2404(C) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3032 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018).

§113. Finances

A. …

B. Administrative Costs. Board orders in disciplinary proceeding may require the respondent to reimburse the board as authorized by R.S. 37:2405(B)11.

C. - D.5. …

E. Travel Expenses. Board members, committee members and employees shall be entitled to reimbursement in accordance with R.S. 2404(C). The board shall adopt policies to provide guidance to the executive director in determining "reasonable" expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2404(C), R.S. 37:2424(A), and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3032 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018).

§119. Affiliations

A. Professional Organizations and Associations. The board may join and pay dues to such professional organizations and associations organized to promote the improvement of standards of practice in physical therapy or to advance and facilitate the operation of the board as an entity. In participating in such organizations or associations, the board may accept reimbursement of conference fees and travel expenses as are available generally to organizational members of those organizations or associations. Any participant who accepts complimentary admission, lodging, or transportation to and from an educational or professional development seminar or conference shall file an affidavit with the Board of Ethics in accordance with R.S. 42:1123(41).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3032 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018).

§121. Declaratory Statements
[Formerly §351]

A. Issuing of Statements. The board may issue a declaratory statement on its own initiative or in response to a request for clarification of the effect of the provisions contained in the Practice Act, R.S. 37:2401 et seq., and/or the board's rules, LAC 46:LIV.Chapter 1 et seq.

1. - 2. …

3. The declaratory statement of the board in response to the petition shall be in writing and shall be made available on the board website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3033 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018).

Subchapter B. General Provisions

§123. Definitions
[Formerly §§103, 113, 119, 303, and 305]

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register.*

A. As used in this Title, the following terms and phrases, unless specifically defined within the Physical Therapy Practice Act, R.S. 37:2401 et seq., shall have the meanings specified herein.

* * *

Applicant Review Committee—the panel designated by board policy to review a license application and attached materials and evidence, including, but not limited to, a criminal history record, and to conduct interviews to examine whether an applicant has presented evidence satisfactory of his qualifications for licensure as required under the Practice Act and board rules and to recommend indicated action on an application. The applicant review committee acts on behalf of the board and shall be composed

of one or more board members and the executive director, but may also include one or more advisory committee member(s) and legal counsel.

* * *

Board—the Louisiana Physical Therapy Board (formerly the Louisiana State Board of Physical Therapy Examiners) created by R.S. 37:2403 within the Louisiana Department of Health, acting through its members as a body or through its executive director, staff, and agents carrying out the rules, policies and precedents established by the board.

* * *

Child or *Children*—as used in R.S. 37:2418(C)(1), an individual or individuals under the age of 21 years.

Client—a person seeking or receiving information, advice, education and/or recommendations for activities related to wellness and preventive services including conditioning, injury prevention, reduction of stress, or promotion of fitness.

* * *

Clinical Supervisor—a licensed PT or PTA in good standing and selected with approval of the board who directly supervises a CAPTE graduate pending examination holding a provisional license in the clinical environment. A clinical supervisor may directly supervise a foreign-educated physical therapist or foreign-educated physical therapist assistant while completing the period of supervised clinical practice requirements of §331. However, to supervise a foreign-educated PT or PTA, the clinical supervisor must be a licensed PT in good standing and selected with approval of the board with at least three years of clinical experience.

Competence—the application of knowledge, skills, and professionalism required to function effectively, safely, ethically and legally within the context of the patient/client role and environment.

* * *

Consent Order—an order of the board that has been contractually entered into by the board and respondent, which shall include, in part, a factual basis for the consent order, the violations of law and rule related to the licensee's conduct, and stipulations which may include revocation, suspension, other restrictions, or any combination thereof as mutually agreed between the parties.

Consultative Services—information, advice, education and/or recommendations provided by a physical therapist with respect to physical therapy.

* * *

Continuing Education Year—beginning April 1 and ending March 31 of the following year.

Continuous Supervision—observation and supervision of the procedures, functions, and practice rendered by a CAPTE graduate PTA provisional licensee pending examination, PT or PTA student, or PT technician, by a supervising PT of record who is physically within the same treatment area.

Coursework Tool (*CWT*)—a tool developed by the FSBPT as a standardized method to evaluate the educational equivalence of non-CAPTE graduates to CAPTE graduates. Each CWT reflects the general and professional educational requirements for substantial equivalence at the time of graduation with respect to a U.S. first professional degree in physical therapy.

* * *

CWT—see *coursework tool*.

* * *

Discharge Summary—see Documentation Standards, §341.

* * *

FEPT—see §135.A.1.

FEPTA—see §135.A.2.

Foreign-Educated Physical Therapist (*FEPT*)—see §135.A.1.

Foreign-Educated Physical Therapist Assistant (*FEPTA*)—see §135.A.2.

* * *

Impairment or *Impaired*—a condition that causes an infringement on the ability of an individual to practice, or assist in the practice, of physical therapy with reasonable skill and safety to patients. Impairment may be caused by, but is not limited to, alcoholism, substance abuse, addiction, mental and/or physical conditions.

In Good Standing—a person who holds a current, valid Louisiana license, who is not subject to a board order or consent order, and whose license is not restricted. The board is the ultimate arbiter of whether a licensee is in good standing.

Inactive—a license status indicating voluntary termination of the right or privilege to practice physical therapy in Louisiana. The board may allow a licensee who is not engaged in the practice of physical therapy in Louisiana to inactivate the license as an alternative to an expired license.

Incompetence—lacking competence, as defined in §123.

* * *

Initial Physical Therapy Evaluation—as defined in R.S. 37:2407(A)(1).

* * *

Jurisdiction of the United States—any state, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any American territory.

* * *

Letter of Concern—is non-disciplinary and notifies the licensee that while evidence found does not merit formal disciplinary action, the board believes that the licensee should become educated about the requirements of the Practice Act and board rules. A letter of concern shall be placed in the permanent record of a licensee following the conclusion of a complaint or upon the granting or renewal of a license. A letter of concern shall not be reportable to NPDB, shall not be published with board disciplinary actions, and shall be deemed confidential pursuant to R.S. 37:2406(B). A letter of concern may be utilized as evidence in subsequent disciplinary actions.

License—the lawful authority of a PT or PTA to engage in the practice of physical therapy in the state of Louisiana, as evidenced by a license duly issued by and under the official seal of the board.

* * *

MEPTA—see §135.A.3.

Military-Educated PTA Applicant (*MEPTA*)—see §135.A.3.

* * *

NPDB—see *national practitioner databank*.

NPTE—see *national physical therapy examination*.

National Physical Therapy Examination—a national examination administered by the FSBPT and approved by the board for the licensure of a physical therapist or the licensure of a physical therapist assistant.

National Practitioner Databank (*NPDB*)—(formerly the "healthcare integrity and protection data bank" or "HIPDB") a web-based repository of reports containing information on medical malpractice payments and certain adverse actions related to health care practitioners, providers, and suppliers, preventing practitioners from moving state-to-state without disclosure or discovery of previous damaging performance and promoting quality health care and deterring fraud and abuse within health care delivery systems created by the Health Care Quality Improvement Act of 1986 (HCQIA), as amended, title IV of Public Law 99-660 (42 U.S.C. 11101 et seq.). Section 1921 of the Social Security Act, as amended, (42 U.S.C. 1396r-2) mandates reporting to the NPDB of adverse licensure actions taken against licensees.

* * *

On Premises—the supervising PT of record is physically present in the treating facility and immediately available to the treatment area.

* * *

Patient—an individual receiving physical therapy services pursuant to a plan of care, treatment plan or program.

Patient Care Conference—see Documentation Standards, §341.

Per Diem—compensation to a board member or committee member for each day during which he is participating in or carrying out an official board approved activity pursuant to R.S. 37:2404(C).

* * *

Physical Therapist—as defined in R.S. 37:2407(A)(2), and is licensed by the board pursuant to the Practice Act and rules.

Physical Therapist Assistant—as defined in R.S. 37:2407(A)(3), and is licensed by the board pursuant to the Practice Act and rules.

Physical Therapy—as defined in R.S. 37:2407(A)(4).

Physical Therapy Evaluation—as defined in R.S. 37:2407(A)(1).

Physical Therapy Technician—a worker not licensed by the board who operates under the direction and control of a licensed physical therapist and functions in a physical therapy clinic, department or business and assists with preparation of the patients for treatment and with limited patient care.

* * *

Plan of Care—documentation created and signed by the physical therapist specifying the measurable goals, specific treatments to be used and the proposed duration and frequency of specified treatment. It is an integral component of a PT evaluation and must be created by the physical therapist prior to delegating appropriate treatment to a PTA or PT technician and incorporating documentation standards provided for in §341.

Practice of Physical Therapy—as defined in R.S. 37:2407(A)(5).

* * *

Preventive Services—the use of physical therapy knowledge and skills by a PT or PTA to provide education or activities in a wellness setting for the purpose of injury prevention, reduction of stress and/or the promotion of fitness and for conditioning. This does not include the administrations of physical therapy treatment.

Probation—license status in which the licensee may practice physical therapy in Louisiana, but may be required to work under certain conditions and/or restrictions as specified and made public in a board order or board agreement.

Progress Note—see Documentation Standards, §341.

Provisional License—a temporary license issued to practice physical therapy in Louisiana. Three types of provisional licenses issued include:

a. *CAPTE graduate pending examination*—applicant pending results of a fixed-date examination;

b. *foreign-educated provisional license*—physical therapist or physical therapist assistant applicant pending completion of the supervised clinical practice requirement of §137;

c. *temporary reciprocal provisional license*—applicant licensed elsewhere and working temporarily in Louisiana under the provisions of §147.

PT—see *physical therapist*.

PTA—see *physical therapist assistant*.

Reassessment or *Reevaluation*—see Documentation Standards, §341.

* * *

Respondent—a licensee who is the subject of an informal complaint, as addressed in §381, or a formal administrative complaint, as addressed in §387, alleging violation of the Practice Act or board rules.

Restricted—license status indicating that the board has placed restrictions or conditions on a license including, but not limited to, scope of practice, place of practice, supervision of practice, or patient demographic.

* * *

Revoked—license status indicating annulment of a license by an action of the board pursuant to formal disciplinary action which terminates the right to practice physical therapy in Louisiana.

* * *

State—see *jurisdiction of the United States*.

* * *

Subversion—engaging in any activity contrary to honesty, justice, or good morals in an attempt to undermine the integrity of the examination or to receive a passing score on the examination as defined in R.S. 37:2414 and required by R.S. 37:2409-2411.2. For purposes of this Chapter, subversion also includes any unauthorized use or reproduction of copyrighted materials.

* * *

Treatment Record—see Documentation Standards, §341.

Week—any consecutive seven days.

* * *

Written Record of Physical Therapy—documentation including the prescription or referral (if such exists), the initial evaluation, treatment notes, notes of patient care conferences, progress notes, reevaluations or reassessments, referral to an appropriate healthcare provider pursuant to R.S. 37:2418(B)(2)(b) (if such exists), and patient status at discharge documenting the complete course of patient care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2407(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744, 745, 748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662, 666 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 24:39, 40 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1908 (September 2008), amended by the Physical Therapy Board, LR 37:3033 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018).

§125. Additional Definitions [Formerly §306]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 31:441 (February 2005), amended by the Physical Therapy Board, LR 37:3036 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2173 (December 2018).

Subchapter C. Graduates of Approved Schools of Physical Therapy or Physical Therapist Assisting

§129. Qualifications for License, Provisional License [Formerly §107]

A. To be eligible for a license as a PT, an applicant shall meet the requirements of R.S. 37:2409, as well as the following requirement:

1. furnish the board with his Social Security number.

B. To be eligible for a license as a PTA, an applicant shall meet the requirements of R.S. 37:2411, as well as the following requirements:

1. be a citizen of a jurisdiction of the United States or an alien lawfully admitted for permanent residence, or an alien otherwise authorized to work lawfully in the United States; and

2. furnish the board with his Social Security number.

C. …

D. To be eligible for a provisional license as a PT or PTA, a CAPTE graduate applicant shall possess all of the qualifications for license in this Section except R.S. 37:2409(5) and R.S. 37:2411(4), respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2409, R.S. 37:2411 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:662 (July 1991), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1443 (July 2000), amended by the Physical Therapy Board, LR 37:3036 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2173 (December 2018).

§133. Approved Schools of Physical Therapy or Physical Therapist Assisting [Formerly §111]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2411 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3037 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2173 (December 2018).

Subchapter D. Foreign-Educated Graduates

§135. Scope of Subchapter [Formerly §115]

A. Applicants. In accordance with R.S. 37:2410(6), the rules of this Subchapter specify additional qualifications, requirements and procedures for the licensing of the following individuals:

1. *foreign-educated physical therapist* (*FEPT*)—a person whose education in physical therapy was obtained outside of a jurisdiction of the United States in a program not accredited by CAPTE;

2. *foreign-educated physical therapist assistant* (*FEPTA*)—a person whose education in physical therapy was obtained outside of a jurisdiction of the United States in a program not accredited by CAPTE;

3. *military-trained physical therapist assistant* (*MTPTA*)—a person whose education in physical therapy was obtained in a military program not accredited by CAPTE.

B. Foreign-educated applicants seeking initial licensure in the United States in Louisiana must obtain a provisional license and complete a period of supervised clinical practice prior to obtaining a permanent license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 18:962 (September 1992), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1444 (July 2000), LR 28:1979 (September 2002), amended by the Physical Therapy Board, LR 37:3037 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2173 (December 2018).

§137. Qualification for License, Provisional License for Foreign Graduates [Formerly §115]

A. The burden of satisfying the board's requirements and qualifications for licensure as a foreign-educated physical therapist (FEPT) in accordance with R.S. 37:2410, a foreign-educated physical therapist assistant (FEPTA) in accordance with R.S. 37:2411.1, and a military-trained physical therapist assistant (MTPTA) in accordance with R.S. 37:2411.2 is upon the applicant. An applicant shall not be deemed to possess required qualifications unless the applicant demonstrates and evidences such qualifications in the manner satisfactory to the board.

B. Credentials Evaluation. A FEPT, FEPTA and MTPTA applicant must submit to the board a credentials evaluation prepared no more than 18 months prior to the date of the application for licensure. The credentials evaluation report shall be submitted to the board directly by the credential evaluation agency evaluating the professional education and training. The approved credentials evaluation shall determine substantial equivalence of the applicant's education. Such education shall include no less than 150 total semester-hour credits including no less than 90 semester-hours credits of physical therapy education and no less than 60 semester-hour credits of general education. The applicant is responsible for any expense associated with the credentials evaluation.

1. The credentials evaluation must provide documentation that the applicant's education from outside a state or territory of the U.S. is substantially equivalent to the education of a PT who has graduated from a physical therapy education program accredited by CAPTE. The evaluation must also establish that the institution at which the applicant received his physical therapy education is recognized by the ministry of education or an equivalent agency in that country.

2. To determine substantial equivalency, the credentialing evaluation entity shall use a course work tool (CWT) adopted by the FSBPT and approved by the board.

3. To determine substantial equivalency for individuals seeking initial licensure, the credentialing agency shall use the current CWT.

4. To be considered substantially equivalent to the requirements established in this rule, the applicant's foreign education must contain evidence of the content and distribution of coursework identified in the appropriate CWT identified in Paragraph B.3 of this Section.

5. An evaluation prepared by a credentialing agency reflects only the findings and conclusion of that agency, and shall not bind the board. If the board determines that the applicant's education is not substantially equivalent to an entry-level physical therapy program accredited by CAPTE, the board will notify the applicant in writing, identifying the deficiencies.

C. Exam Score. The applicant must achieve a passing score on the national physical therapy examination (NPTE).

D. Authorization to Work in the U.S. The applicant must be a citizen of a jurisdiction of the United States or an alien lawfully admitted for permanent residence, or an alien otherwise authorized to work lawfully in the United States.

E. The board will issue a provisional license to a FEPT or FEPTA only after the applicant is physically present in the U.S. and has met all requirements for licensure except the completion of a supervised clinical practice as required by R.S. 37:2410(5) and R.S. 37:2411.1(5).

F. If a document required by this Title is in a language other than English, the applicant shall arrange for its translation into English by a translation service acceptable to the board and shall submit a translation signed by the translator attesting to its accuracy.

G. Designated Representative Letter

1. An applicant may designate a person as a representative by providing a written authorization to the board which includes the name, telephone number, and address of the person stating that the person will be the designated representative for the applicant.

2. This authorization must be notarized by a notary of the country in which the applicant resides and sent directly to the board. A copy of the notarized authorization shall be sent to the designated representative by the applicant.

3. A designated representative may obtain confidential information regarding the application.

4. The authorization to represent an applicant will be valid until the applicant receives his provisional license or the board is notified in writing by the applicant that the designated representative has been terminated or replaced. An applicant may have only one designated representative at any time.

5. The designated representative is not required by the board to have power of attorney for the applicant. A designated representative or power of attorney for an applicant may not sign for the applicant any document requiring the notarized signature of the applicant. Documents submitted by a designated representative or power of attorney for the applicant must be submitted in accordance with the requirements set by the Practice Act and rules. Any falsification of, or misrepresentation in, documents required for licensing submitted by a designated representative or a person with power of attorney for the applicant may result in denial of license or other penalties to the applicant.

H. Supervised Clinical Practice. To be eligible for an FEPT and FEPTA provisional license to engage in supervised clinical practice as required in §331, a FEPT or FEPTA applicant shall meet all of the substantive qualifications for license as specified by R.S. 37:2010 or R.S. 37:2411.1 respectively. The FEPT or FEPTA applicant and the board-approved supervisor for the period of supervised clinical practice shall participate in a personal meeting with a member of the board, or a designee of the board, by appointment prior to being issued a provisional license to engage in supervised clinical practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 18:962 (September 1992), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1444 (July 2000), LR 28:1979 (September 2002), amended by the Physical Therapy Board, LR 37:3037 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2173 (December 2018).

§139. Licensing Procedures for Foreign-Educated Graduates

A. Licensing procedures for FEPT and FEPTA applicants are as follows:

1. application for initial licensure by examination as a FEPT or FEPTA shall:

a. complete the license application process as set forth in §137;

b. satisfy the procedures and requirements for application provided by §§149-153 of this Chapter;

c. satisfy the procedures and requirements for examination administered by the board provided in §§155-171; and

d. have successfully completed at least six months of approved supervised clinical practice as required in §331.

2. licensure by reciprocity for FEPT and FEPTA applicants shall be in accordance with §145.

a. the period of supervised clinical practice may be waived for individuals who have engaged in physical therapy practice for 20 hours or more per week for at least 12 months immediately preceding application in a Jurisdiction of the United States.

B. Licensing procedures for military trained physical therapist assistants (MTPTA) are as follows:

1. application for initial licensure by examination as a MTPTA shall:

a. complete the substantive qualification as specified in §137;

b. satisfy the procedures and requirements for application provided by §§149-153 of this Chapter; and

c. satisfy the procedures and requirements for examination administered by the board provided in §§155-171.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3038 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2174 (December 2018).

§143. Procedural Requirements for FEPT, FEPTA, and MTPTA Applicants [Formerly §117]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 18:962 (September 1992), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1444 (July 2000), LR 28:1979 (September 2002), amended by the Physical Therapy Board, LR 37:3039 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2175 (December 2018).

Subchapter E. Licensure by Reciprocity

§145. Qualifications for Licensure by Reciprocity [Formerly §121]

A. …

B. Graduates of Approved Schools of Physical Therapy or Physical Therapist Assisting

1. An applicant who possesses and meets all of the qualifications and requirements specified by R.S. 37:2409 and R.S. 37:2411, as interpreted by §§129-139 of this Chapter, but who has taken the board approved licensing exam in another jurisdiction, shall nonetheless be eligible for licensure by reciprocity in accordance with R.S. 37:2412 if the following requirements are satisfied:

a. the applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license in good standing or its equivalent issued by another jurisdiction;

b. the applicant has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice physical therapy in this state at the time the act was committed;

c. the jurisdiction from whence the applicant comes accords a similar licensing privilege to individuals licensed as PTs and PTAs in Louisiana; and

d. the requirements for licensure in the other jurisdiction were, at the date of licensing therein, substantially equal to the requirements for licensure in Louisiana, specifically §129, as set forth now or at the time of licensure in the other jurisdiction.

C. Foreign-Educated Physical Therapist (FEPT) or Foreign-Educated Physical Therapist Assistant (FEPTA)

1. An FEPT or FEPTA is eligible for licensure by reciprocity as a PT or PTA in accordance with R.S. 37:2412 if the following requirements are satisfied:

a. the applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license in good standing or its equivalent issued by another jurisdiction;

b. the applicant has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice physical therapy in this state at the time the act was committed;

c. the jurisdiction from whence the applicant comes accords a similar licensing privilege to individuals licensed as PTs and PTAs in Louisiana; and

d. the requirements for licensure in the other jurisdiction were, at the date of licensing therein, substantially equal to the requirements for licensure of foreign-educated PT and PTAs in Louisiana, specifically §137, as set forth now or at the time of licensure in the other jurisdiction.

2. An FEPT or FEPTA who meets the requirements of §145.C.1 and who has engaged in the practice of physical therapy for a minimum of 20 hours per week for at least for at least one year in another jurisdiction, may be eligible for licensure by reciprocity as a PT or PTA without completing the period of supervised clinical practice as set forth in §137.C, at the discretion of the board. Such request shall be made in writing and submitted with license application and acceptable documentation of clinical experience.

3. In accordance with R.S. 37:2410(6) and R.S. 37:2411.1(6), the board may, in its discretion, mandate completion of a board approved self-assessment tool, various education activities, or supervised practice prior to issuance of a license by reciprocity to a foreign-educated PT or PTA.

D. To be eligible for licensure under Subsections B and C of this Section, applicants shall have met the continuing education requirements contained in the Practice Act and/or board rules for the 24 months preceding their application for the jurisdiction where they are currently licensed and practicing physical therapy.

E. An applicant for reciprocity who has a current, unrestricted license in good standing or its equivalent issued by another jurisdiction, but has not engaged in the practice of physical therapy in any jurisdiction or country for a period of four or more years shall be subject to these additional requirements:

1. licensee shall be subject to a three-month period of supervised clinical practice;

2. licensee may only practice under the on premises supervision of a board-approved PT who has practiced no

less than three years with a Louisiana license in good standing;

3. completion of the practice assessment and satisfactory completion of continuing education courses indicated by that tool to bring the applicant's knowledge to current standards;

4. a supervision agreement must be approved by the executive director before a provisional license will be issued. The supervision agreement shall be in force for the entire three-month supervisory period. This licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the change taking place. At the end of the supervisory period, the supervising PT of record shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the supervising PT of record, the board, in its discretion, may require an additional three-month supervisory period; and

5. completion of remedial courses which may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2412 and (4) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 34:1906 (September 2008), amended by the Physical Therapy Board, LR 37:3039 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2175 (December 2018).

Subchapter F. License Application

§151. Requirements
[Formerly §125]

A. - B.3. …

4. such other information and documentation as the board may require to evidence qualification for licensure and completion of the requirements for licensure;

5. the application fees due from an applicant shall follow the fee schedule described in §501; and

6. completion of the Louisiana jurisprudence examination.

C. An applicant for whom supervised clinical practice is required must forward to the board a supervisory request form for approval, including the name of the PT or PTA who is requested to supervise his clinical practice. The supervisor must consent to the supervision and be approved by the board prior to issuance of a provisional license.

D. An applicant must pass of the Louisiana jurisprudence exam.

E. - N. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2413 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 26:1444 (July 2000), amended by the Physical Therapy Board, LR 37:3040 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1299 (August 2016), LR 44:2176 (December 2018).

Subchapter G. Examination

§157. Eligibility for Examination
[Formerly §133]

A. To be eligible for examination by the board, an applicant shall possess all qualifications for licensure prescribed by §129. However, an applicant who has completed, or will complete prior to examination, his physical therapy or physical therapist assistant education, but who does not yet possess a degree or certificate, shall be deemed eligible for examination upon submission to the board of a letter subscribed by the authorized representative of an approved school certifying that the applicant has completed all academic education at such school or college, that a degree in physical therapy or physical therapist assisting will be conferred at the next scheduled convocation of such school, and specifying the date on which such degree will be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3042 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2176 (December 2018).

§161. Administration of Examination
[Formerly §137]

A. - B. …

C. An applicant scheduled for examination shall:

1. …

2. fully and promptly comply with any and all rules, policies, procedures, instructions, directions, or requests made or prescribed by the testing service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 26:1445 (July 2000), amended by the Physical Therapy Board, LR 37:3042 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2176 (December 2018).

§163. Subversion of Examination Process
[Formerly §139]

A. An applicant who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §167.

B. Conduct which subverts or undermines the integrity of the examination process includes, but is not limited to:

1. refusing or failing to fully and promptly comply with any rules, policies, procedures, instructions, directions, or requests made or prescribed by representatives of the testing service;

2. …

3. reproducing or reconstructing any portion of the licensing examination by copying, duplication, written notes or electronic recording;

4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of any portion of current, future, or previously administered licensing examination;

5. any unauthorized use or reproduction of copyrighted materials;

6. communicating in any manner with any other examinee or any other person during the administration of the examination;

7. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

8. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed or recorded materials or data of any kind;

9. impersonating an examinee by appearing for an applicant and taking the examination for, and in the name of an applicant other than himself;

10. permitting another person to appear for and take the examination on one's behalf and in one's name; or

11. engaging in any conduct which disrupts the examination process for other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 26:1445 (July 2000), amended by the Physical Therapy Board, LR 37:3042 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2176 (December 2018).

§165. Finding of Subversion
[Formerly §141]

A. When, during the administration of examination, there exists reasonable cause to believe that an applicant is engaging, or attempting to engage, in subversion of the exam process, appropriate action shall be taken by the testing service to promptly terminate such conduct and ensure the integrity of the examination. In the event that the testing entity takes action against an applicant, such testing entity shall report such conduct to the board in a timely manner.

B. When the board has reasonable cause to believe that an applicant has engaged in or attempted to engage in conduct which subverts the examination process, either prior to or during the administration of the examination, the board shall notify the applicant and provide him with an opportunity for a hearing pursuant to the Administrative Procedure Act and applicable board rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:663 (July 1991), LR 26:1445 (July 2000), amended by the Physical Therapy Board, LR 37:3042 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2177 (December 2018).

§167. Sanctions for Subversion of Examination
[Formerly §143]

A. An applicant who is found by the board to have engaged in or attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

B. In addition to the sanctions permitted or mandated by §167.A as to an applicant found by the board to have engaged in or attempted to engage in conduct which subverts the examination process, either prior to or during the administration of the examination, the board may:

1. revoke, suspend, or impose probationary conditions on any license which has been issued to such applicant;

2. disqualify the applicant, permanently or for a specific period of time from eligibility for licensure in the state of Louisiana; or

3. disqualify the applicant, permanently from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3043 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2177 (December 2018).

§171. Restriction, Limitation on Examinations, Additional Requirements
[Formerly §§147, 153, and 155]

A. …

B. An applicant, who has failed the examination for the first time, shall have no more than two years from the date of the first examination and no more than four attempts to successfully pass the examination.

1. Upon approval by the board of a written request made in compliance with Paragraph 2 of this Subsection, the board may extend the time-period for the following applicants to successfully pass the examination:

a. applicants on extended military service for a period in excess of three months during the two-year time period immediately following initial examination failure; or

b. applicants who were unable to successfully pass the examination within the two-year time period immediately following initial examination failure because of illness, natural disaster, or other personal hardship.

2. Written request for an exemption under Paragraph 1 of this Subsection shall include supporting documentation.

C. Applicants who have failed the examination on three occasions, may, prior to reapplication:

C.1. - D. …

E. Low Score Limit. An applicant who has failed the examination and has been identified as failing on two occasions with a “low score,” as that term is defined by the exam vendor selected by the board, shall not be made eligible for examination. A very low score is specified in examination policies adopted by the exam vendor selected by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387, 388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000), LR 34:1907

(September 2008), amended by the Physical Therapy Board, LR 37:3043 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2177 (December 2018).

Subchapter H. Provisional License

§172. CAPTE Graduate Applicants Pending Examination

A. …

B. A provisional license granted to a CAPTE graduate pending examination pursuant to this Rule shall be issued for 90 days and shall designate board-approved supervisors at each worksite. No more than one such provisional license shall be issued to an applicant.

C. - D. …

E. When the NPTE is available on an "on-demand" or "continuous" basis to applicants, such provisional licenses will not be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3043 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2178 (December 2018).

§173. Foreign-Educated Provisional License [Formerly §159]

A. A foreign-educated applicant who possesses all of the qualifications for licensure prescribed by §137 of this Chapter, except for §137.C, shall be issued a provisional license to engage in supervised clinical practice under the requirements of §331 for the purpose of fulfilling in whole or part the requirement of §137.C.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3044 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2178 (December 2018).

Subchapter I. License Issuance, Termination, Renewal, Reinstatement

§175. Issuance of License [Formerly §161]

A. - C. …

D. Evidence of license status may be verified from the board website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2415(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 26:1446 (July 2000), amended by the Physical Therapy Board, LR 37:3044 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2178 (December 2018).

§180. Inactive License

A. Upon written request, the board may approve inactive status to a licensee if, at the time of request, the license is current and in good standing.

B. Upon approval of inactive status by the board, the licensee shall not engage in the practice of physical therapy within the state of Louisiana. Engaging in the practice of physical therapy while inactive is a violation of this Section and may subject the licensee to disciplinary action.

C. Inactive Status Renewal

1. For inactive licensees, continuing education requirements for renewal are waived.

2. Inactive status shall be renewed in accordance with §181.

3. The inactive license renewal fee is equivalent to the fee to renew an active license, as specified in §501.

D. Reactivation of License

1. To restore an inactive license to an active status, the inactive licensee shall:

a. provide documentation satisfactory to the board of completion of the continuing education requirements specified in §194 for the continuing education period immediately preceding reactivation;

b. provide documentation satisfactory to the board that he has engaged in physical therapy practice in any jurisdiction or country within four years preceding his request to restore active license status. An individual who has not engaged in physical therapy practice for four or more years prior to restoring active license status shall comply with Paragraph D.2 of this Section.

2. The board shall restore active status of an inactive license for an individual who has not engaged in the practice of physical therapy in any jurisdiction or country for a period of four or more years under the following conditions:

a. licensee shall be subject to a three-month period of supervised clinical practice;

b. licensee may only practice under the on-premises supervision of a board approved PT who has practiced no less than three years with a Louisiana license in good standing;

c. completion of the practice assessment and satisfactory completion of continuing education courses indicated by that tool to bring the applicant's knowledge to current standards;

d. a supervision agreement must be approved by the executive director before a provisional license will be issued. The supervision agreement shall be in force for the entire three-month supervisory period. This licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the change taking place. At the end of the supervisory period, the supervising PT of record shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the supervising PT of record, the board, in its discretion, may require an additional three-month supervisory period; and

e. completion of remedial courses which may be prescribed by the board.

E. The inactive status of any licensee does not deprive the board of its authority to institute or continue any disciplinary or enforcement action against the licensee.

F. Licensees who voluntarily agree to abstain from the practice through an agreement with the board shall be placed on inactive status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2415(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health, Physical Therapy Board, LR 44:2178 (December 2018).

§181. Renewal of License
[Formerly §165]

A. Licensees shall be notified by the board of license renewal deadlines. Standard procedure for license renewal and the payment of required fees is by online application through the board website. Upon written request, a renewal application shall be mailed to the licensee. Failure to receive notification of license renewal deadlines shall not be a defense for failure to timely renew a license.

B. Renewal applications received:

1. by March 31 shall be assessed a renewal fee pursuant to §501;

2. after March 31 and before April 30 shall be assessed a late renewal fee, pursuant to §501, as provided by law;

3. after April 30 shall be deemed as applications for license reinstatement pursuant to §187.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2417 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), amended by the Physical Therapy Board, LR 37:3044 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1300 (August 2016), LR 44:2179 (December 2018).

§183. Restrictions on License Renewal; Restoration

A. As required by R.S. 37:2951, the board shall deny an application for renewal if a licensee has defaulted on a loan from the Louisiana Student Financial Assistance Commission. Upon notice from the Louisiana Student Financial Assistance Commission that a repayment agreement has been established, the license shall be renewed.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2417 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3045 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2179 (December 2018).

§185. Reinstatement of Suspended or Revoked License
[Formerly §349]

A. An application for reinstatement of a suspended license requires satisfaction of the requirements of §187.E.

B. - D.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3045 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2179 (December 2018).

§187. Reinstatement of Lapsed License
[Formerly §167]

A. - E.6. …

7. verification of licensure from all jurisdictions in which the applicant has applied for or held a license/permit.

F. …

G. Any person whose license has lapsed and who has not practiced physical therapy for more than four years may apply for reinstatement of licensure upon payment of the renewal fee and the reinstatement fee under the following conditions:

1. licensee shall be subject to a three-month period of supervised clinical practice;

2. licensee may only practice under the on premises supervision of a board-approved physical therapist who has practiced no less than three years with a Louisiana license in good standing;

3. completion of a practice assessment and satisfactory completion of continuing education courses indicated by that tool to bring the applicant's knowledge to current standards;

4. a supervision agreement must be approved by the executive director before a provisional license will be issued to complete the three-month period of supervised clinical practice. The supervision agreement shall be in force for the entire three-month supervisory period. The licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the change taking place. At the end of the supervisory period, the supervising physical therapist shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the supervising physical therapist, the board, in its discretion, may require an additional three-month supervisory period; and

5. completion of remedial courses which may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:1979 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3045 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1300 (August 2016), LR 44:2179 (December 2018).

Subchapter J. Continuing Education

§195. Content Criteria
[Formerly §169]

A. - B.4.b.iv. …

c. a maximum of five-hours credit during the renewal period for publication of scientific papers, abstracts, textbook chapters and poster or platform presentations at conferences relating to PT. Textbook chapter credit will be given only for the year of publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(B)(7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3047 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1300 (August 2016), LR 44:2179 (December 2018).

§198. Exemptions from CE Requirements [Formerly §173]

A. PTs or PTAs licensed in Louisiana are exempt from the Subchapter J continuing education requirements for the continuing education year, beginning April 1 and ending March 31 of the following year, in which they graduate from an accredited physical therapy education program. For the second year of the licensee's renewal period, 15 contact hours must be completed and reported in keeping with the requirements of §194.

B. - C.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(B)(7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 21:394 (April 1995), LR 34:1908 (September 2008), amended by the Physical Therapy Board, LR 37:3047 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018).

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§303. Professional Standards [Formerly §§307 and 315]

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register*.

A. - B. …

C. A PT shall exercise sound professional judgment based upon his knowledge, skill, education, training, and experience, and shall perform only those procedures for which he is competent. If, during evaluation, reassessment or screening, the PT finds that treatment which is outside the scope of his knowledge, experience, or expertise is needed, the PT shall notify the patient or client and provide a referral to an appropriate healthcare provider.

D. …

E. A PTA may act as a clinical instructor for a PTA student, a supervisor of a PTA CAPTE provisional licensee pending examination, or a supervisor of a foreign-educated PTA (FEPTA) provisional licensee, provided that the PTA clinical instructor has one year of supervised work experience in the practice setting in which he will act as the clinical instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 34:1909, 1910 (September 2008), amended by the Physical Therapy Board, LR 37:3048 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018).

§305. Practice with Prescription or Referral

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3049 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018).

§307. Physical Therapy Services without Prescription or Referral [Formerly §306]

A. These rules are intended to facilitate and implement the provisions of R.S. 37:2418(C)(4). They are meant as practical guidelines, while maintaining flexibility in the rendering of physical therapy services, without eliminating the opportunity for oversight and supervision.

B. - B.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 31:441 (February 2005), amended by the Physical Therapy Board, LR 37:3049 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018).

§311. Treatment with Dry Needling

A. …

B. Dry needling is a physical therapy treatment which requires specialized physical therapy education and training for the utilization of such techniques. Prior to utilizing dry needling techniques in patient treatment, a PT shall provide documentation to the executive director that he has successfully completed a board-approved course of study consisting of no fewer than 50 hours of face-to-face instruction in intramuscular dry needling treatment and safety. Online and other distance learning courses will not satisfy this requirement. Practicing dry needling without compliance with this requirement constitutes unprofessional conduct and subjects a licensee to appropriate discipline by the board.

C. …

D. Prior to performing the initial dry needling treatment on a patient the physical therapist shall educate the patient of the potential risks and benefits of dry needling and receive informed consent from the patient. Documentation of the education and consent shall be maintained in the patient treatment record.

E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3049 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018).

§313. Transfer of Patient Care

A. A PT shall notify the patient and shall document the transfer of care of the patient, as appropriate, to another health care provider in the event of elective termination of physical therapy services by the PT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3049 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018).

§319. Use of Telehealth in the practice of Physical Therapy

A. The board hereby adopts R.S. 40:1223.1 et seq., known as the "Louisiana Telehealth Access Act", including any amendments thereto, and promulgates these rules to

provide for, promote, and regulate the use of telehealth in the delivery of physical therapy services through telehealth. Physical therapists and physical therapist assistants owe a duty to patients to provide quality physical therapy services in accordance with the laws and rules governing the practice of physical therapy regardless of the mode in which those services are rendered. These rules shall be interpreted, construed and applied so as to give effect to such purposes and intent.

B. Individuals who are licensed physical therapists and physical therapist assistants in good standing in Louisiana may provide physical therapy via telehealth to a patient in an originating site as defined in R.S. 40:1223.3 within the jurisdiction of Louisiana and shall follow all requirements for standard of practice and documentation as provided in the Practice Act and board rules. The standard of care for telehealth services shall be at least equivalent to the standard of care for services delivered in person.

C. When providing telehealth services, a licensee shall have documented procedures in place to address remote medical or clinical emergencies at the patient's location.

D. A physical therapist licensed in good standing in another jurisdiction who is providing information, advice, or opinion through telehealth to a physical therapist licensed in Louisiana regarding patient care shall be exempt from Louisiana licensure requirements.

E. A Louisiana licensee providing telehealth services to a patient in an originating site as defined in. R.S. 40:1223.3 in a jurisdiction outside of Louisiana may be required to be licensed or registered in the jurisdiction in which the originating site is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018).

Subchapter B. Prohibitions

§321. Unauthorized Practice; Practice Restrictions [Formerly §307]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2423 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 34:1909 (September 2008), amended by the Physical Therapy Board, LR 37:3050 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2181 (December 2018).

§325. Exemptions [Formerly §309]

A. In accordance with R.S. 37:2408(B), a person employed as a physical therapist or a physical therapist assistant by the United States government, or any department, agency, or bureau thereof, shall not be required to obtain a license under the provisions of this Chapter. However, such person may engage in the practice of physical therapy outside the course and scope of such federal employment only after obtaining a license in accordance with this Chapter.

B. …

C. A physical therapist or physical therapist assistant licensed in another jurisdiction of the United States or credentialed in another country performing physical therapy incidental to teaching, demonstrating or providing physical therapy services in connection with teaching or participating in an educational seminar of no more than 60 days in a calendar year, provided such physical therapist or physical therapist assistant is licensed in good standing in another jurisdiction or credentials are in good standing in another country, or holds an appointment on the faculty of a school approved for training physical therapists or physical therapist assistants.

D. Any physical therapist or physical therapist assistant licensed in a jurisdiction of the United States or credentialed in another country performing physical therapy as part of his training within a post professional residency or fellowship program in this state shall be exempt from licensure in Louisiana, provided such physical therapist is licensed in good standing in another jurisdiction or credentials are in good standing in another country.

E. A physical therapist or physical therapist assistant licensed in a jurisdiction of the United States or credentialed in another country contracted or employed to provide physical therapy to patients/clients affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in the jurisdiction for no more than 60 days in a calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Examiners, LR 24:40 (January 1998), LR 34:1909 (September 2008), amended by the Physical Therapy Board, LR 37:3051 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2181 (December 2018).

Subchapter C. Supervised Practice

§330. Supervision Requirements for Graduates of Approved Schools of Physical Therapy or Physical Therapist Assisting Pending Examination

A. A PT holding a provisional license pending examination shall engage in the practice of physical therapy under the supervision of one or more board-approved supervisor(s).

B. …

1. daily face-to-face communication between one board-approved supervisor and the provisional license holder;

2. on premises, as defined in §123, observation of patient care by board-approved supervisors in the provisional licensee's approved practice location(s), a minimum of 2 hours per day with a minimum total of 10 hours per week; and

3. availability of the supervisor at all times to provide advice to the provisional license holder and to the patient during physical therapy treatment given by the provisional license holder.

C. …

D. Supervisor Absence. If the board-approved clinical supervisor cannot fulfill his supervisory obligations for a CAPTE graduate pending examination provisional licensee:

1. if absent for five or fewer consecutive days, another PT in good standing may supervise in his place. In such case, the substitute PT is not required to be approved by the board; however, the board designated supervisor, the substitute supervisor, and the supervised individual, shall all be held accountable for the care provided by those supervised;

2. if absent for more than five consecutive days, the board-approved clinical supervisor of the CAPTE graduate pending examination provisional licensee shall send a written request to the executive director for approval of a substitute supervising physical therapist during his period of absence. The substitution can only occur once written approval is provided by the executive director to the designated supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.2(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3051 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2181 (December 2018).

§331. Supervised Clinical Practice of Foreign-Educated Physical Therapist Provisional Licensees and Foreign-Educated Physical Therapist Assistant Provisional Licensees [Formerly §§317 and 319]

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register*.

A. The clinical supervisor for a foreign-educated provisional licensee must be an APTA certified clinical instructor or, within the three years prior to serving as a supervisor, have previously served as clinical instructor for a PT or PTA student as part of an approved school of physical therapy or physical therapist assisting. To be approved as a clinical supervisor of a foreign-educated provisional licensee, a PT shall have at least three years of clinical experience with an unrestricted license. A clinical supervisor is subject to ratio restrictions pursuant to R.S. 37:2418(F)(2)(a).

B. Before a foreign-educated physical therapist or foreign-educated physical therapist assistant applicant for initial licensure is issued a provisional license, the applicant shall submit to the board:

1. - 3. …

C. The executive director shall approve or deny a request made under §331 after assessing whether the facility provides the opportunity for a provisional license holder to attain the knowledge, skills, and attitudes to be evaluated according to a board-approved performance evaluation tool and determines if the site provides a broad base of clinical experience to the foreign-educated provisional licensee including a variety of physical agents, therapeutic exercises, evaluation procedures, and patient physical therapy diagnoses.

1. …

D. As authorized by R.S. 37:2410(6), a foreign-educated provisional licensee shall not begin practicing physical therapy until the executive director has approved the clinical supervisor and the worksite, the foreign-educated provisional licensee has completed the personal interview with a board representative, and the executive director has issued his provisional license.

E. A provisional licensee shall complete a supervised clinical practice at a board-approved clinical site for a minimum of four hours per day, with on premises supervision by a board-approved clinical supervisor who is a physical therapist.

1. …

2. The board-approved clinical supervisor of the foreign-educated initial applicant shall cosign all of the foreign-educated provisional licensee's treatment documentation within five days of treatment.

F. Supervisor Absence. If, due to illness or continuing education, the board-approved clinical supervisor for the foreign-educated provisional licensee cannot fulfill his supervisory obligations:

1. if absent for five or fewer consecutive days, another PT in good standing may supervise in his place. In such case, the substitute PT is not required to be approved by the board; however, the board-approved clinical supervisor of the foreign-educated provisional licensee, the substitute clinical supervisor of the foreign-educated provisional licensee, and the supervised foreign-educated provisional licensee shall all be held accountable for the care provided to the patient;

2. if absent for more than five consecutive days, the board-approved clinical supervisor of the foreign-educated provisional licensee shall send a written request to the executive director for approval of a substitute supervising physical therapist during his period of absence. The substitution can only occur once written approval is provided by the executive director to the designated supervisor.

G. The approved clinical supervisor shall:

1. observe, assist and support the provisional licensee during the supervised clinical practice;

2. rate the provisional licensee's performance during his clinical practice using a board-approved performance evaluation form or tool, indicating the dates of observation, demonstration or discussion of each skill;

3. assess skills required for success in such setting with recommendations for improvement upon completion of a supervised clinical practice site;

4. submit the results of the supervised clinical practice to the board in a timely manner. Approval of the next clinical placement or granting of license, shall not take place until this report is received and evaluated by the executive director; and

5. continue with supervised clinical practice until the supervised foreign-educated provisional licensee receives notice of termination of supervision by issuance of permanent license.

H. A provisional licensee shall not supervise any personnel unless assistance is required to ensure the safety and welfare of the patient during ambulation, transfers, or functional activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:667 (July 1991), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), amended by the Physical Therapy Board, LR 37:3051 (October 2011), amended by the Department of Health, Physical Therapy, LR 44:2182 (December 2018).

§333. Physical Therapist Responsibilities; Supervision of Physical Therapist Assistants [Formerly §321]

A. A supervising PT of record is responsible for and shall participate in the patient's care.

A.1. - B. …

1. The level of responsibility assigned to a PTA is at the discretion of the supervising PT of record who is ultimately responsible for the care provided by this PTA.

2. …

a. perform an initial physical therapy evaluation and create the plan of care on each patient prior to delegation of treatment;

B.2.b. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3052 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018).

§335. Supervision of Physical Therapy Technicians [Formerly §321]

A. - A.2. …

3. To ensure the safety and welfare of a patient during ambulation, transfers, or functional activities, the PTA may utilize one or more physical therapy technicians for physical assistance without the physical therapist on premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018).

§337. Clinical Instruction of Student PTs and PTAs [Formerly §321]

A. A clinical instructor shall provide continuous supervision to a PT or PTA student in all practice settings. A PTA may act as a clinical instructor for a PTA student in all practice settings provided that the PT supervisor of the PTA is available by telephone or other communication device.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018).

§339. Limitation on Supervision Ratios [Formerly §321]

A. Supervision Ratio. Limitations on supervision for a physical therapist shall comply with R.S. 37:2418(F)(2)(a).

B. It is the responsibility of each PT to determine the number of individuals he can supervise safely and within the ratio set forth by law.

C. The number of individuals supervised by PTAs shall be included in the number of individuals supervised by the supervising PT of record for any given day. In no case shall the number of individuals supervised by a PTA on any given day exceed two, nor exceed the following limitations:

1. no more than one PTA provisional licensee; and

2. no more than one PTA student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018).

§341. Documentation Standards [Formerly §323]

A. A written record of physical therapy treatment shall be maintained for each patient. A complete record shall include written documentation of prescription or referral (if such exists), initial evaluation, treatment(s) provided, PT/PTA conferences, progress notes, reevaluations or reassessments, and patient status at discharge all as defined in §123.

1. A prescription or referral, if it exists, may initially be a verbal order and may be later confirmed in writing. The verbal order shall be documented by the PT in the patient's record.

2. An initial physical therapy evaluation, as defined in R.S. 37:2407(A)(1), shall be created and signed by the PT performing the evaluation within seven days after performing the evaluation.

3. Progress note is the written documentation of the patient’s subjective status, changes in objective findings, and progression to or regression from established goals. A progress note shall be created and signed only by the supervising PT of record or PTA. A progress note shall be written a minimum of once per week, or if the patient is seen less frequently, then at every visit.

4. Reassessment or reevaluation is the written documentation which includes all elements of a progress note, as well as the interpretation of objective findings compared to the previous evaluation with a revision of goals

and plan of care as indicated. A reassessment shall be written at least once per month, or, if the patient is seen less frequently, then at every visit. A reassessment shall be created and signed by the supervising PT of record.

5. …

6. Patient care conference is the documentation of the meeting held between a PTA who is providing patient care and the PT supervising that care to discuss the status of patients. This conference shall be conducted where the PT and PTA are both physically present at the same time and place, or through live communication through the use of interactive, multimedia equipment that includes, at minimum, audio or video equipment, or any combination thereof, permitting two-way, real-time, and interactive communications conducted in accordance with all standards required by federal and state laws governing privacy and security of a patient's protected health information. The patient care conference shall be signed and dated by the PT and PTA and shall be entered in the patient treatment record within five days of the conference, documenting treatment recommendations and decisions made.

7. Discharge summary is the written documentation of the reasons for discontinuation of care, degree of goal achievement and a discharge plan which shall be created and signed by the supervising PT of record. A discharge summary shall be written at the termination of physical therapy care when feasible.

B. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018).

Subchapter D. Disciplinary Proceedings

§343. Sanctions in Disciplinary Proceedings [Formerly §325]

A. …

B. Board orders in disciplinary proceeding may require the respondent to reimburse the board in accordance with R.S. 37:2405(B)(11).

C. In placing a respondent on suspension or probation, the board may impose such additional terms, conditions and restrictions as it deems appropriate for the period of suspension or probation. The board shall specify in its order the exact duration of the suspension or probationary period. Upon finding that a respondent placed on probation has failed to comply with the terms and conditions of the board order, the board may take such additional disciplinary action as it deems appropriate, following notice and hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3054 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2184 (December 2018).

§345. Unprofessional Conduct [Formerly §327]

A. The board shall deem a violation any charge of conduct which fails to conform to the Practice Act, and board rules to carry out the provisions of the Act, and shall take appropriate action where violations are found. The rules of this Chapter complement the board's authority to deny, suspend, revoke or take such other action against a licensee, as it deems appropriate.

B. As used in R.S. 37:2420(A)(7) of the Practice Act and in these rules, the term unprofessional conduct does not require actual injury to a patient, and includes, but is not limited to, the following:

1. departure from, failure to conform to, or failure to perform on a continuing basis to the minimal standards of acceptable and prevailing physical therapy practice as defined in §123, or the commission of any act contrary to honesty, justice, good morals, patient safety or the best interest of the patient, whether committed in the course of the licensees practice or otherwise, regardless of whether actual injury to a patient results therefrom, including, but not limited to:

a. …

b. failing to assess a patient's status at every visit;

c. performing or attempting to perform procedures for which the licensee is not qualified by education, experience, licensure, or training;

d. failure to inform and refer the patient or client to an appropriate practitioner, when the licensee becomes aware of findings and/or the need for treatment which are outside the scope of the PT's competence;

e. providing treatment interventions that are not warranted by the patient's condition or continuing treatment beyond the point of reasonable benefit to the patient;

f. providing substandard care as a PTA by exceeding the authority to perform components of physical therapy interventions selected by the supervising PT of record or through a deliberate or negligent act or failure to act, whether or not actual injury to any person occurred;

g. causing, or permitting another person to cause, physical or emotional injury to the patient, or depriving the patient of his individual dignity; or

h. abandoning a patient without documenting the transfer of care or by inappropriately terminating the patient/practitioner relationship;

2. …

a. delegate professional, physical therapy, or, if applicable, physical therapist assistant responsibilities to a person the PT or PTA knows, or has reason to know, is not qualified by education, training, experience or licensure to perform the function or responsibility involved; or

2.b - 6. …

7. conviction of any crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or related to the practice of physical therapy or which constitutes behavior which could put the person or property of patients at risk of harm from a treating licensee, or failing to notify the board of the same within seven days of conviction or entry of a plea of guilty or nolo contendere;

8. - 9. …

10. making or participating in any communication, advertisement, or solicitation which is false, fraudulent, deceptive, misleading or unfair in violation of board rules, or which contains a false, fraudulent, deceptive, misleading or unfair statement or claim, including, but not limited to:

a. documenting services provided which have not been provided as documented or billing for services which have not been provided;

11. …

12. practicing or enabling practice by an impaired provider as defined is §123, a licensee shall not:

a. engage in the practice of physical therapy while under the influence of a mood-altering substance that compromises the professional judgment or practice or has the potential to compromise the medical judgment or practice;

b. enable practice by an impaired provider;

c. fail to submit to physical or mental examination or for drug screening or testing at the time and place directed by the executive director following receipt of apparently reliable information or report alleging impairment, pursuant to §351, or as otherwise provided in the rules;

13. …

14. allowing another person to use a licensee's wall certificate, pocket identification card, license number, national provider identifier, or other official document which identifies the holder as a licensee for any purpose other than to identify himself as the lawful holder of those credentials;

15. failure to notify the board of a felony arrest or arrest related to habitual intemperance as defined in §351, institution of formal criminal charges either by indictment or bill of information, and conviction, including, but not limited to, a guilty plea or a plea of nolo contendere, within seven days of such arrest, criminal charge, or conviction.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:3054 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2184 (December 2018).

§351. Substance Abuse and Habitual Intemperance [Formerly §327]

A. - A.1. …

2. the ingestion, self-administration, or other use of legally controlled substances or medications which affect the central nervous system, other than pursuant to and used in accordance with a lawful prescription and/or medical advice; or

3. repeated excessive use or abuse of any mood altering or mind altering substance that may negatively impact the ability of a licensee to safely practice physical therapy.

B. …

C. If the board receives apparently reliable information, including, but not limited to, reports made pursuant to R.S. 37:1745.14, which information or report puts in question a licensee's or applicant's current fitness and ability to practice physical therapy with reasonable skill and safety to patients, the licensee or applicant shall submit to such physical or mental examination, evaluation, test, or drug/alcohol screen as requested by the executive director to determine the licensee's or applicant's fitness and ability to practice physical therapy with reasonable skill and safety to patients.

D. A respondent shall appear for drug screening and testing at the facility designated by the executive director within six hours of initial contact by the board representative sent to the telephone number or email address designated for such purposes by respondent pursuant to §355, or as otherwise provided in the rules.

E. Records of such examinations, evaluations, tests, and screens shall be maintained by the board in confidence unless such records are admitted into the record of any adjudication proceeding before the board or subpoenaed by a court order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:3056 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2185 (December 2018).

§353. Recovering Physical Therapy Program (RPTP)

A. Under the provisions of R.S. 37:2402 and following, the board has the authority to establish and implement recovery programs for PTs and PTAs as an alternative to the disciplinary process. The RPTP is established to assist board licensees who have demonstrated actual or potential inability to practice physical therapy with reasonable skill and safety to patients because of impairment as defined in §123. The goal of the RPTP is for PTs or PTAs to be treated and to return to practice in a manner which will not endanger public health, safety and welfare.

B. Eligibility. The following persons are eligible for participation in the RPTP:

1. a Louisiana-licensed PT or PTA;

2. a graduate of a school of physical therapy or physical therapist assisting eligible for licensure in Louisiana;

3. a PT or PTA currently enrolled in a peer assistance/alternative program in another jurisdiction and requesting licensure in Louisiana;

C. Objective. The RPTP objectives are:

1. to ensure the health, safety and welfare of the public through a program which closely monitors practitioners whose capacity to practice physical therapy with reasonable skill and safety to patients has been, or may potentially be, compromised because of impairment as defined by §123;

2. to encourage voluntary participation of licensees in appropriate rehabilitative medical treatment and ongoing aftercare and monitoring;

3. to promote safe physical therapy care by preventing and/or restricting the practice of-impaired licensees; and

4. to provide a structured program for participants seeking recovery from impairment.

D. Referrals to RPTP. Upon receipt of a complaint which involves a licensee, or reliable information of the impairment of persons eligible for participation in the RPTP as specified in Subsection B of this Section, the executive director may refer eligible persons for participation in the

RPTP. Only eligible persons whose conditions have reliable indicators for return to safe practice will be permitted to participate in the RPTP.

E. Defer or Suspend Disciplinary Proceedings. When disciplinary proceedings have been initiated or could be initiated against a licensee pursuant to R.S. 37:2401-2424, such proceedings may be deferred or suspended to allow the licensee to participate in the RPTP.

F. An eligible person as defined in Subsection B of this Section not meeting the criteria of §357 may be admitted into the RPTP by the board pursuant to any adjudication order.

G. In addition to providing an alternative to discipline, the RPTP accepts eligible persons who have been diagnosed with a physical, and/or mental impairment, or substance abuse and/or dependency and eligible persons already subject to discipline ordered by the board.

H. When a licensee ceases to be in compliance with his RPTP agreement, he shall be referred back to the board for regular disciplinary proceedings or such action as authorized in the RPTP agreement.

I. Use of Outside Contractor. The RPTP may be administered by board staff directly or the board may delegate to a qualified outside contractor the administration and operation of all or part of RPTP on such terms as it deems prudent. Such contractor shall be charged with the powers and responsibilities set forth in these rules. If delegated to a qualified outside contractor, the board shall cooperate with a contract operator of RPTP and shall act responsibly to meet its obligations under the Practice Act, board rules, RPTP agreements and contracts with outside contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3056 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2185 (December 2018).

§355. Objectives of RPTP

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3056 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2186 (December 2018).

§357. Admission to the Confidential Recovering Physical Therapy Program (CRPTP)

A. Participation in CRPTP may be voluntary, non-punitive, confidential, and in place of formal disciplinary proceedings for eligible persons who meet the following admission criteria:

1. voluntary request for admission to RPTP whether referred by self or other sources;

2. addiction to or use of alcohol and/or other mood altering substances including prescription drugs, or has a physical or mental condition, which impairs or potentially impairs the ability of the eligible person to perform duties safely;

3. no previous disciplinary action involving impairment by any licensing authority;

4. has no criminal convictions or pending criminal charge that involves violence or danger to another person, or involves a crime which constitutes a threat to patient care;

5. no diversion of chemicals;

6. no dealing or selling of illicit drugs;

7. no coexisting untreated physical, emotional or psychiatric problems which would impair physical therapy competency;

8. no related practice problems involving death or significant harm to a patient; and

9. agrees to comply with all RPTP requirements and signs the RPTP agreement including a statement acknowledging chemical dependency or other impairment.

B. Involvement by the participant in the CRPTP will remain confidential and shall not be subject to discovery in a legal proceeding except as required by federal and state confidentiality laws as long as the licensee complies with all stipulations of the RPTP agreement.

1. The board may cause to be made non-confidential the records, files and information related to a successfully completed RPTP in the event that a former participant becomes the subject of a subsequent disciplinary action for violation of the Practice Act or board rules related to substance abuse and/or chemical dependency unless such records are protected by federal and state confidentiality laws and regulations.

C. When a licensee ceases to be in compliance with his confidential RPTP agreement, he shall be referred back to the board for regular disciplinary proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3056 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2186 (December 2018).

§359. Discretionary Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3057 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2186 (December 2018).

§365. Licensure of Persons with a History of Substance Abuse

A. As authorized by R.S. 37:2420(A)(5), the board may refuse to license any applicant, or may refuse to renew the license of any person, or may restrict, suspend or revoke any license upon proof that a person has been habitually intemperate or abused controlled dangerous substances as defined by federal or Louisiana law.

B. In reviewing a history of substance abuse, the board may consider, among other evidence, the following in determining fitness to practice physical therapy and appropriate board action:

B.1. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3057 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2186 (December 2018).

§367. Substance Abuse Recovery Program [Formerly §355]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3057 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2187 (December 2018).

§369. Disclosure of Financial Interest and Abuse of Referrals [Formerly §327]

A. Declaration of Purpose; Interpretation and Application. Physical therapists and physical therapist assistants owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, recommending, or referring patients for health care items and services, without regard to personal financial recompense. The purpose of these rules and the laws they implement is to prevent payments by or to a health care provider as a financial incentive for the referral of a patients to a health care provider for diagnostic or therapeutic services or items. These rules shall be interpreted, construed and applied so as to give effect to such purposes and intent.

B. …

C. Violation of R.S. 37:1744 shall be a violation of these rule and the laws they implement.

D. Violation of R.S. 37:1745 shall be a violation of these rules and the laws they implement.

E. General Exceptions. Any payment, remuneration, practice, or arrangement, which is not prohibited by or unlawful under §1128B(b) of the federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under title XVIII or title XIX of the Act, including those payments and practices sanctioned by the secretary of the United States Department of Health and Human Services, through the Office of the Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 CFR §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §369 of these rules with respect to health care items or services for which payment may be made by any patient, private, or governmental payer.

F. Sanctions. Upon proof of a violation, the board may suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license and shall order the refund of all such sums received in payment for the goods and services furnished or rendered without disclosure of financial interest. Such a refund shall be paid to the individual patient, third-party payor, or other entity who made the payment.

G. The board shall submit to the commissioner of insurance an annual report listing the investigations undertaken pursuant to this Section, including the number of violations and the sanctions imposed, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:3058 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2187 (December 2018).

§371. Cease and Desist Orders; Injunctive Relief [Formerly §353]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2422 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3058 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2187 (December 2018).

§373. Violations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2421 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3058 (October 2011), repealed by the Department of Health, Physical Therapy Board, LR 44:2187 (December 2018).

§375. Disciplinary Process and Procedures [Formerly §329]

A. - C. …

D. Pursuant to 45 CFR 60.1, the board is required to report certain information, including final adverse actions it has taken against its licensees, to the NPDB. The board may designate an agent to act on its behalf to report information and submit queries to the NPDB as required by federal law, as may be amended from time-to-time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 26:2792 (December 2000), amended by the Physical Therapy Board, LR 37:3059 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2187 (December 2018).

§377. Initiation of Complaints [Formerly §331]

A. Complaints may be initiated by any person or by the board on its own initiative. A licensee is obligated to report to his supervisor or employer, and to the board, violations of the Practice Act, board rules or the minimal standards of acceptable and prevailing physical therapy practice as defined in §123.

B. Failure by a licensee to report such violations to his supervisor or employer and to the board may subject the licensee to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 19:208 (February 1993), LR 26:1448 (July 2000), amended by the Physical Therapy Board, LR 37:3059 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2187 (December 2018).

§379. Emergency Action [Formerly §343]

A. In accordance with R.S. 49:961, if the board finds that public health, safety, and welfare require emergency action and incorporates a finding to that effect in its order, a summary suspension of a license may be ordered pending proceedings for suspension, revocation or other action. Such proceedings shall be promptly instituted and determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3059 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2187 (December 2018).

§381. Disposition of Complaints [Formerly §§333 and 335]

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register*.

A. - A.2. …

3. *letter of concern*, as defined in §123;

4. consent order. If the respondent and the board member participating in the Investigative Committee agree on the essential facts and law arising out of the complaint and on sanctions to be imposed on the respondent, the complaint may be resolved by a consent order to be presented by the participating board member or by board legal counsel for approval, amendment or rejection. If accepted by the board and the respondent, the consent order shall be finalized as a board order and shall be reported to the NPDB and published as a disciplinary action of the board;

5. dismissal:

a. a complaint may be dismissed for the following reasons:

i. the absence of adequate, credible evidence; or

ii. other reasons which the Investigative Committee believes are justification for dismissal;

b. when it is the decision of the Investigative Committee to dismiss a complaint, the complainant shall be provided with a letter explanation for dismissal of the complaint;

6. education. After review and investigation of a complaint, the Investigative Committee may require the licensee to participate in an educational meeting with the Investigative Committee, or other persons as delegated by the Investigative Committee, to discuss the laws and rules as they apply to the practice of physical therapy. Request for an educational meeting shall be in writing and shall provide the date, time, location, and matters to be discussed. This meeting shall be confidential and shall not be reported to the NPDB nor published as a disciplinary action of the board. Failure to comply with the request for an educational meeting shall be deemed a failure to cooperate with the board in violation of §383.A.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:390, 391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3059 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2188 (December 2018).

§383. Failure to Respond or Cooperate with the Board [Formerly §341]

A. …

1. respond or provide information or items requested, respond to a subpoena, comply to a request for a meeting, or complete an evaluation within the time designated by the board or its staff;

A.2. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3060 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2188 (December 2018).

§387. Formal Hearings [Formerly §337]

A. - C.1. …

2.a. The complaint is investigated by the Investigative Committee as defined in §123 to determine if there is sufficient evidence to warrant disciplinary proceedings. Once the complaint is under investigation, no board member (except board members serving as members of an Investigative Committee) shall receive or review any information relevant to the subject matter of the investigation or communicate with the respondent or his legal representative, potential witnesses, or any member of the Investigative Committee concerning any issue of fact or law relevant to the investigation. A board member who has served on the Investigative Committee shall not serve as a member of a hearing panel of the board in the adjudication of a case previously investigated by the board member.

2.b. - 6.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:205(B)(10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3060 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2188 (December 2018).

§392. Order of Hearing [Formerly §337]

A. - A.3. …

a. which evidence may include, but is not limited to, all evidence admissible pursuant to R.S. 49:956(2) and (3);

b. as part of the board's case in chief, the board's representative may call the respondent under cross examination;

4. - 5. …

a. which evidence may include, but is not limited to, all evidence admissible pursuant to R.S. 49:956(2) and (3);

6. - 10. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(B)(10) and Act 535 of 2009.

HISTORICAL NOTE: promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the

Physical Therapy Board, LR 37:3062 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2188 (December 2018).

Subpart 3. Fees

Chapter 5. Fees

§501. Fees

A. - B. …

C. If the biennial renewal fee is received by the board office on or subsequent to May 1, the applicant shall apply for reinstatement pursuant to §187 and shall pay the renewal fee and the reinstatement fee.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 17:667 (July 1991), LR 18:963 (September 1992), LR 21:396 (April 1995), LR 28:1982 (September 2002), amended by the Physical Therapy Board, LR 37:3063 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1301 (August 2016), LR 44:2189 (December 2018).

Charlotte Martin
Executive Director

1812#065

RULE

Department of Insurance
Office of the Commissioner

Medicare Supplemental Insurance Minimum Standards (LAC 37:XIII.Chapter 5)

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 33—Medicare Supplemental Insurance Minimum Standards.

The regulation has been amended to be in uniform with the Medicare Access and CHIP Reauthorization Act of 2015 ("MACRA"), which was signed into law on April 16, 2015. Section 401 of MACRA prohibits the sale of Medigap policies that cover Part B deductibles to "newly eligible" Medicare beneficiaries defined as those individuals who: have attained age 65 on or after January 1, 2020; or first become eligible for Medicare due to age, disability or end-stage renal disease, on or after January 1, 2020. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 5. Regulation 33—Medicare Supplement Insurance Minimum Standards

§501. Purpose

A. - A.4. …

5. to incorporated Medigap policies that cover Part B deductibles to "newly eligible" Medicare beneficiaries defined as those individuals who:

a. have attained age 65 on or after January 1, 2020; or

b. first become eligible for Medicare due to age, disability or end-stage renal disease, on or after January 1, 2020.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1101 (June 1999), repromulgated LR 25:1481 (August 1999), LR 29:2434 (November 2003), LR 31:31:2902 (November 2005), amended LR 44:2189 (December 2018).

§502. Applicability and Scope

A. - B …

C. Updating Regulation 33 to comply with Medicare Access and CHIP Reauthorization Act.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1101 (June 1999), repromulgated LR 25:1481 (August 1999), LR 29:2434 (November 2003), LR 31:31:2902 (November 2005), amended LR 44:2189 (December 2018).

§510. Minimum Benefit Standards for Pre-Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery Prior to July 20, 1992

A. - A.2.e. …

f. coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductibles ($183);

g. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1103 (June 1999), repromulgated LR 25:1483 (August 1999), amended LR 29:2437 (November 2003), LR 31:2905 (November 2005), LR 35:1115 (June 2009), amended LR 44:2189 (December 2018).

§521. Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or After June 1, 2010

A. - A.5.f.ii …

g. Standardized Medicare supplement benefit Plan G shall include only the following: the basic (core) benefit as defined in §516.A.2 of this regulation, plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in §516.A.3.a, c, e, and f, respectively. Effective January 1, 2020, the standardized benefit plans described in §522.A.1.d. of this regulation (Redesignated Plan G High Deductible) may be offered to any individual who was eligible for Medicare prior to January 1, 2020.

5.h. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR:35:1118 (June 2009), amended LR 44:2189 (December 2018).

§522. Standard Medicare Supplement Benefit Plans for 2020 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery to Individuals Newly Eligible for Medicare on or After January 1, 2020.

A. The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) requires the following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state to individuals newly eligible for Medicare on or after January 1, 2020. No policy or certificate that provides coverage of the Medicare Part B deductible may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate to individuals newly eligible for Medicare on or after January 1, 2020. All policies must comply with the following benefit standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued to individuals eligible for Medicare before January 1, 2020, remain subject to the requirements of Regulation 33.

1. Benefit Requirements. The standards and requirements of §521 shall apply to all Medicare supplement policies or certificates delivered or issued for delivery to individuals newly eligible for Medicare on or after January 1, 2020, with the following exceptions:

a. standardized Medicare supplement benefit Plan C is redesignated as Plan D and shall provide the benefits contained in §521.A.5.c of this regulation but shall not provide coverage for 100 percent or any portion of the Medicare Part B deductible.

b. standardized Medicare supplement benefit Plan F is redesignated as Plan G and shall provide the benefits contained in §521.A.5.e of this regulation but shall not provide coverage for 100 percent or any portion of the Medicare Part B deductible.

c. standardized Medicare supplement benefit plans C, F, and F with high deductible may not be offered to individuals newly eligible for Medicare on or after January 1, 2020.

d. standardized Medicare supplement benefit Plan F with high deductible is redesignated as Plan G with high deductible and shall provide the benefits contained in §521.A.5.f of this regulation but shall not provide coverage for 100 percent or any portion of the Medicare Part B deductible; provided further that, the Medicare Part B deductible paid by the beneficiary shall be considered an out-of-pocket expense in meeting the annual high deductible.

e. the reference to Plans C or F contained in §521.A.1.b. is deemed a reference to Plans D or G for purposes of this section.

2. Applicability to Certain Individuals. This §522, applies to only individuals that are newly eligible for Medicare on or after January 1, 2020:

a. by reason of attaining age 65 on or after January 1, 2020; or

b. by reason of entitlement to benefits under part A pursuant to section 226(b) or 226A of the Social Security Act, or who is deemed to be eligible for benefits under section 226(a) of the Social Security Act on or after January 1, 2020.

3. Guaranteed Issue for Eligible Persons. For purposes of §535.E., in the case of any individual newly eligible for Medicare on or after January 1, 2020, any reference to a Medicare supplement policy C or F (including F with high deductible) shall be deemed to be a reference to Medicare supplement policy D or G (including G with high deductible), respectively, that meet the requirements of this §522 A.1.

4. Applicability to Waivered States. In the case of a State described in section 1882(p)(6) of the Social Security Act ("waivered" alternative simplification states) MACRA prohibits the coverage of the Medicare Part B deductible for any Medicare supplement policy sold or issued to an individual that is newly eligible for Medicare on or after January 1, 2020.

5. Offer of Redesignated Plans to Individuals other than Newly Eligible. On or after January 1, 2020, the standardized benefit plans described in Subparagraph A.1.d, above may be offered to any individual who was eligible for Medicare prior to January 1, 2020, in addition to the standardized plans described in §521.A.5. of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR:2190 (December 2018).

§535. Guaranteed Issue for Eligible Persons

A. - B. …

1. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide some or all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefit plan that is primary or secondary to Medicare and the plan terminates or the plan ceases to provide some or all health benefits to the individual or the individual leaves the plan.

B.2. - F.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1110 (June 1999), repromulgated LR 25:1490 (August 1999), amended LR 29:2444 (November 2003), LR 31:2912 (November 2005), LR:35:1120 (June 2009), amended LR 44:2190 (December 2018).

§560. Required Disclosure Provisions

A. - D.3.b. …

4. the following items shall be included in the outline of coverage in the order prescribed below.

Benefit Chart of Medicare Supplement Plans Sold for Effective Dates on or After June 1, 2010

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan "A" available. Some plans may not be available in Louisiana.

Basic Benefits:

- Hospitalization – Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
- Medical Expenses – Part B coinsurance (generally 20% of Medicare-approved expenses) or copayments for hospital outpatient services. Plans K, L and N require insureds to pay a portion of Part B coinsurance or co-payments.
- Blood – First three pints of blood each year.
- Hospice – Part A coinsurance

A	B	C	D	F	F*	G
Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance*		Basic, including 100% Part B coinsurance
		Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance		Skilled Nursing Facility Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible		Part A Deductible
		Part B Deductible		Part B Deductible		
				Part B Excess (100%)		Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		Foreign Travel Emergency

K	L	M	N
Hospitalization and preventive care paid at 100%; other basic benefits paid at 50%	Hospitalization and preventive care paid at 100%; other basic benefits paid at 75%	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance, except up to $20 copayment for office visit, and up to $50 copayment for ER
50% Skilled Nursing Facility Coinsurance	75% Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance
50% Part A Deductible	75% Part A Deductible	50% Part A Deductible	Part A Deductible
		Foreign Travel Emergency	Foreign Travel Emergency
Out-of-pocket limit $[5240]; paid at 100% after limit reached	Out-of-pocket limit $[2620]; paid at 100% after limit reached		

* Plan F also has an option called a high deductible Plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year $[2240] deductible. Benefits from high deductible plan F will not begin until out-of-pocket expenses exceed $[2240]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

NOTICE [Boldface Type]

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult *Medicare and You* for more details.

Benefit Chart of Medicare Supplement Plans Sold on or after January 1, 2020

This chart shows the benefits included in each of the standard Medicare supplement plans. Some plans may not be available. Only applicants' first eligible for Medicare before 2020 may purchase Plans C, F, and high deductible F.

NOTE: A ✓ MEANS 100% OF THE BENEFIT IS PAID.

Benefits	Plans Available to All Applicants								Medicare first eligible before 2020 only	
	A	B	D	G[1]	K	L	M	N	C	F[1]
Medicare Part A coinsurance and hospital coverage (up to an additional 365 days after Medicare benefits are used up)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Medicare Part B coinsurance or Copayment	✓	✓	✓	✓	50%	75%	✓	✓ copays apply[3]	✓	✓

Benefits	Plans Available to All Applicants								Medicare first eligible before 2020 only	
	A	B	D	G[1]	K	L	M	N	C	F[1]
Blood (first three pints)	✓	✓	✓	✓	50%	75%	✓	✓	✓	✓
Part A hospice care coinsurance or copayment	✓	✓	✓	✓	50%	75%	✓	✓	✓	✓
Skilled nursing facility coinsurance			✓	✓	50%	75%	✓	✓	✓	✓
Medicare Part A deductible		✓	✓	✓	50%	75%	50%	✓	✓	✓
Medicare Part B deductible									✓	✓
Medicare Part B excess charges				✓					✓	✓
Foreign travel emergency (up to plan limits)			✓	✓			✓	✓	✓	✓
Out-of-pocket limit in [2018][2]					**[$5,240][2]**	**[$2,620][2]**				

1 PLANS F AND G ALSO HAVE A HIGH DEDUCTIBLE OPTION WHICH REQUIRE FIRST PAYING A PLAN DEDUCTIBLE OF [$2240] BEFORE THE PLAN BEGINS TO PAY. ONCE THE PLAN DEDUCTIBLE IS MET, THE PLAN PAYS 100% OF COVERED SERVICES FOR THE REST OF THE CALENDAR YEAR. HIGH DEDUCTIBLE PLAN G DOES NOT COVER THE MEDICARE PART B DEDUCTIBLE. HOWEVER, HIGH DEDUCTIBLE PLANS F AND G COUNT YOUR PAYMENT OF THE MEDICARE PART B DEDUCTIBLE TOWARD MEETING THE PLAN DEDUCTIBLE.

2 PLANS K AND L PAY 100% OF COVERED SERVICES FOR THE REST OF THE CALENDAR YEAR ONCE YOU MEET THE OUT-OF-POCKET YEARLY LIMIT.

3 PLAN N PAYS 100% OF THE PART B COINSURANCE, EXCEPT FOR A CO-PAYMENT OF UP TO $20 FOR SOME OFFICE VISITS AND UP TO A $50 CO-PAYMENT FOR EMERGENCY ROOM VISITS THAT DO NOT RESULT IN AN INPATIENT ADMISSION.

Plan A

Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$0	$[1340] (Part A deductible)
61st thru 90th day	All but $[335] a day	$[335] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[670] a day	$[670] a day	$0
--Once lifetime reserve days are used:			
--Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
--Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[167.50] a day	$0	Up to $[167.50] a day
101st day and after	$0	$0	All costs
Blood First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for out-patient drugs and inpatient respite Care	Medicare copayment/ Coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan A
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[183] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[183] of Medicare Approved Amounts*	$0	$0	$[183] (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[183] of Medicare Approved Amounts*	$0	$0	$[183] (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
Clinical Laboratory Services—Tests for Diagnostic Services	100%	$0	$0

Plan A
Parts A and B

Home Health Care			
Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[183] of Medicare Approved Amounts*	$0	$0	$[183] (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0

Plan B
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$[1340] (Part A Deductible)	$0
61st thru 90th day	All but $[335] a day	$[335] a day	$0
91st day and after:	All but $[670] a day	$[670] a day	$0
--While using 60 lifetime reserve days			
--Once lifetime reserve days are used:			
--Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
--Beyond the additional 365 days	$0	$0	All Costs

Services	Medicare Pays	Plan Pays	You Pay
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[167.50] a day	$0	Up to $ [167.50] a day
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare Copayment /coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan B
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[183] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B Deductible) $0
Remainder of Medicare- Approved Amounts	Generally, 80%	Generally, 20%	
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services-- Tests for Diagnostic Services	100%	$0	$0

Plan B
Parts A and B

Home Health Care Medicare Approved Services --Medically necessary skilled care services and medical supplies --Durable medical equipment	100%	$0	$0
First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0

Plan C
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$[1340] (Part A Deductible)	$0
61st thru 90th day	All but $[335] a day	$[335] a day	$0
91st day and after:	All but $[670] a day	$[670] a day	$0
--While using 60 lifetime reserve days			
--Once lifetime reserve days are used: Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[167.50] a day	Up to $[167.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for out-patient drugs and inpatient respite Care	Medicare co-payment/ coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan C
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[183] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[183] of Medicare-Approved Amounts*	$0	$[183] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[183] of Medicare-Approved Amounts*	$0	$[183] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services— Tests for Diagnostic Services	100%	$0	$0

Plan C
Parts A and B

Home Health Care Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[183] of Medicare-Approved Amounts*	$0	$[183] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	80%	20%	$0

Plan C
Other Benefits—Not Covered by Medicare

Foreign Travel—Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Plan D
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$[1340] (Part A Deductible)	$0
61st thru 90th day	All but $[335] a day	$[335] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[670] a day	$[670] a day	$0
--Once lifetime reserve days are used:			
---Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
---Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[167.50] a day	Up to $[167.50] a day	$0
101st day and after	$0	$0	All costs

Services	Medicare Pays	Plan Pays	You Pay
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/ coinsurance for out-patient drugs and inpatient respite care	Medicare copayment/coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan D
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[183] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B Deductible)
Remainder of Medicare-Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services— Tests For Diagnostic Services	100%	$0	$0

Plan D (continued)
Parts A and B

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B Deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0

Plan D
Other Benefits—Not Covered by Medicare

Foreign Travel—Not Covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Plan F or High Deductible Plan F
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [$2240] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [$2240]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

Services	Medicare Pays	[After You Pay [$2240] Deductible,** Plan Pays]	[In Addition to [$2240] Deductible,** You Pay]
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$[1340] (Part A Deductible)	$0
61st thru 90th day	All but $[335] a day	$[335] a day	$0
91st day and after:	All but $[670] a day	$[670] a day	$0
--While using 60 lifetime reserve days			
--Once lifetime reserve days are used:			
Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[167.50] a day	Up to $[167.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/coinsurance	$0

***NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance on any difference between its billed charges and the amount Medicare would have paid.

Plan F or High Deductible Plan F (Continued)
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[183] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

[**This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [$2240] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [$2240]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

Services	Medicare Pays	[After You Pay $2240 Deductible,** Plan Pays]	[In Addition to $2240 Deductible,** You Pay]
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[183] of Medicare-Approved Amounts*	$0	$[183] (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
Blood			
First 3 pints	$0	All Costs	$0
Next $[183] of Medicare-Approved Amounts*	$0	$[183] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services— Tests For Diagnostic Services	100%	$0	$0

Plan F or High Deductible Plan F
Parts A and B

Services	Medicare Pays	After You Pay $2240 Deductible,** Plan Pays	In Addition to $2240 Deductible,** You Pay
Home Health Care Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[183] of Medicare-Approved Amounts*	$0	$[183] (Part B Deductible)	$0
Remainder of Medicare-Approved Amounts	80%	20%	$0

Plan F or High Deductible Plan F (Continued)
Other Benefits—Not Covered by Medicare

Services	Medicare Pays	After You Pay $2240 Deductible,** Plan Pays	In Addition to $2240 Deductible,** You Pay
Foreign Travel—Not Covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Plan G or High Deductible Plan G
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same benefits as Plan G after you have paid a calendar year [$2240] deductible. Benefits from the high deductible Plan G will not begin until out-of-pocket expenses are [$2240]. Out-of-pocket expenses for this deductible include expenses for the Medicare Part B deductible, and expenses that would ordinarily be paid by the policy. This does not include the plan's separate foreign travel emergency deductible.]

Services	Medicare Pays	After You Pay $[2240]Deductible,** Plan Pays	In Addition to $[2240] Deductible,** You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$[1340] (Part A Deductible)	$0
61st thru 90th day	All but $[335] a day	$[335] a day	$0
91st day and after:	All but $[670] a day	$ [670] a day	$0
--While using 60 lifetime reserve days			
--Once lifetime reserve days are used:			
Additional 365 days	$0	100% of Medicare Eligible Expenses	$0***
Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[167.50] a day	Up to $[167.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for out-patient drugs and inpatient respite care	Medicare co-payment/coinsurance	$0

***NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan G or High Deductible Plan G
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[183] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

[**This high deductible plan pays the same benefits as Plan G after you have paid a calendar year [$2240] deductible. Benefits from the high deductible Plan G will not begin until out-of-pocket expenses are [$2240]. Out-of-pocket expenses for this deductible include expenses for the Medicare Part B deductible, and expenses that would ordinarily be paid by the policy. This does not include the plan's separate foreign travel emergency deductible.]

Services	Medicare Pays	After you Pay $[2240] Deductibles, ** Plan Pays	In Addition to $[2240] Deductible, ** You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Unless Part B Deductible has been met)]
Remainder of Medicare-Approved Amounts	Generally, 80%	Generally, 20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
Blood			
First 3 pints	$0	All Costs	$0
Next $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Unless Part B Deductible has been met)
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services—Tests For Diagnostic Services	100%	$0	$0

Plan G or High Deductible Plan G
Parts A and B

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Unless Part B Deductible has been met)
Remainder of Medicare-Approved Amounts	80%	20%	$0

Other Benefits—Not Covered by Medicare

Foreign Travel--Not Covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Plan K

*You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of $[5240] each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare co-payment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

Medicare (Part A)—Hospital Services—Per Benefit Period

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay*
Hospitalization** Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$[670] (50% of Part A deductible)	$[670] (50% of Part A deductible)♦
61st thru 90th day	All but $[335] a day	$ [335] a day	$0
91st day and after:	All but $[670] a day	$ [670] a day	$0
--While using 60 lifetime reserve days		100% of Medicare eligible	

Services	Medicare Pays	Plan Pays	You Pay*
--Once lifetime reserve days are used: --Additional 365 days --Beyond the additional 365 days	$0 $0	expenses $0	$0*** All costs
Skilled Nursing Facility Care** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	 All approved amounts All but $[167.50] a day $0	 $0 Up to $[83.75] a day (50% of Part A Coinsurance) $0	 $0 Up to $[83.75] a day (50% of Part A Coinsurance) ♦ All costs
Blood First 3 pints Additional amounts	 $0 100%	 50% $0	 50%♦ $0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	50% of co-payment/coinsurance	50% of Medicare co-payment/coinsurance ♦

***NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan K
Medicare (Part B)—Medical Services—Per Calendar Year

****Once you have been billed $[183] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay*
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First $[183] of Medicare Approved Amounts**** Preventive Benefits for Medicare covered services Remainder of Medicare Approved Amounts	 $0 Generally 80% or more of Medicare approved amounts Generally 80%	 $0 Remainder of Medicare approved amounts Generally 10%	 $[183] (Part B deductible)**** ♦ All costs above Medicare approved amounts Generally 10% ♦
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs (and they do not count toward annual out-of-pocket limit of $[5240])*
Blood First 3 pints Next $[183] of Medicare Approved Amounts**** Remainder of Medicare Approved Amounts	 $0 $0 Generally 80%	 50% $0 Generally 10%	 50%♦ $[183] (Part B deductible)**** ♦ Generally 10% ♦
Clinical Laboratory Services— Tests For Diagnostic Services	100%	$0	$0

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to $ [5240] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

Plan K
Parts A and B

Services	Medicare Pays	Plan Pays	You Pay*
Home Health Care Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment			
First $[183] of Medicare Approved Amounts*****	$0	$0	$[183] (Part B deductible) ♦
Remainder of Medicare Approved Amounts	80%	10%	10%♦

*****Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

Plan L

*You will pay one-fourth of the cost-sharing of some covered services until you reach the annual out-of-pocket limit of $[2620] each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare co-payment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

Medicare (Part A)—Hospital Services—Per Benefit Period

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay*
Hospitalization** Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$[1005] (75% of of Part A deductible)	$[335] (25% of Part A deductible)♦
61st thru 90th day	All but $[335] a day	$[335] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[670] a day	$[670] a day	$0
--Once lifetime reserve days are used:			
--Additional 365 days	$0	100% of Medicare eligible expenses	$0***
--Beyond the additional 365 days	$0	$0	All costs
Skilled Nursing Facility Care** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[167.50] a day	Up to $[125.63] a day (75% of Part A Coinsurance)	Up to $[41.8] a day (25% of Part A Coinsurance) ♦
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	75%	25%♦
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	75% of co-payment/coinsurance	25% of co-payment/coinsurance♦

***NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan L
Medicare (Part B)—Medical Services—Per Calendar Year

****Once you have been billed $[183] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay*
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $[183] of Medicare Approved Amounts****			
Preventive Benefits for Medicare covered services	$0	$0	$[183] (Part B deductible)**** ♦
Remainder of Medicare Approved Amounts	Generally 80% or more of Medicare approved amounts Generally 80%	Remainder of Medicare approved amounts Generally 15%	All costs above Medicare approved amounts Generally 5% ♦
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All costs (and they do not count toward annual out-of-pocket limit of $[2620])*
Blood			
First 3 pints	$0	75%	25%♦
Next $[183] of Medicare Approved Amounts****	$0	$0	$[183] (Part B deductible) ♦
Remainder of Medicare Approved Amounts	Generally 80%	Generally 15%	Generally 5%♦
Clinical Laboratory Services— Tests For Diagnostic Services	100%	$0	$0

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to $[2620] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

Plan L
Parts A and B

Services	Medicare Pays	Plan Pays	You Pay*
Home Health Care Medicare Approved Services			
--Medically necessary skilled care services and medical supplies	100%	$0	$0
--Durable medical equipment First $[183] of Medicare Approved Amounts*****	$0	$0	$[183] (Part B deductible) ♦
Remainder of Medicare Approved Amounts	80%	15%	5% ♦

*****Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare.*

Plan M
Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$[670] (50% of Part A deductible)	$[670] (50% of Part A deductible)
61st thru 90th day	All but $[335] a day	$[335] a day	$0
91st day and after:			
--While using 60 lifetime reserve days	All but $[670] a day	$[670] a day	$0
Once lifetime reserve days are used: --Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
--Beyond the additional 365 days	$0	$0	All Costs

Services	Medicare Pays	Plan Pays	You Pay
Skilled Nursing Facility Care* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[167.50] a day	Up to $[167.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for outpatient drugs and inpatient respite care	Medicare co-payment/coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan M

Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[183] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B deductible)
Remainder of Medicare Approved Amounts	Generally 80%	Generally 20%	$0
Part B Excess Charges (Above Medicare-Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[183] of Medicare-Approved Amounts*	$0	$0	$ [183] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services—Tests For Diagnostic Services	100%	$0	$0

Parts A and B

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care Medicare Approved Services			
Medically necessary skilled care services and medical supplies	100%	$0	$0
---Durable medical equipment			
---First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B deductible)
---Remainder of Medicare Approved Amounts	80%	20%	$0

Other Benefits—Not Covered by Medicare

Foreign Travel--Not Covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

Plan N

Medicare (Part A)—Hospital Services—Per Benefit Period

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
Hospitalization*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $[1340]	$[1340] (Part A deductible)	$0
61st thru 90th day	All but $[335] a day	$[335] a day	$0
91st day and after:	All but $[670] a day		
--While using 60 lifetime reserve days		$[670] a day	$0
Once lifetime reserve days are used:			
--Additional 365 days	$0	100% of Medicare Eligible Expenses	$0**
--Beyond the additional 365 days	$0	$0	All Costs
Skilled Nursing Facility Care*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $[167.50] a day	Up to $ [167.50] a day	$0
101st day and after	$0	$0	All costs
Blood			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
Hospice Care You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited co-payment/coinsurance for outpatient drugs and inpatient respite care	Medicare co-payment/coinsurance	$0

**NOTE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

Plan N (continued)
Medicare (Part B)—Medical Services—Per Calendar Year

*Once you have been billed $[183] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
Medical Expenses—In or Out of the Hospital and Outpatient Hospital Treatment, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Balance, other than up to $20 per office visit and up to $50 per emergency room visit. The co-payment of up to $50 is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.	Up to $20 per office visit and up to $50 per emergency room visit. The co-payment of up to $50 is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
Blood			
First 3 pints	$0	All Costs	$0
Next $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	$0
Clinical Laboratory Services—Tests for Diagnostic Services	100%	$0	$0

Parts A and B

Services	Medicare Pays	Plan Pays	You Pay
Home Health Care			
Medicare Approved Services			
Medically necessary skilled care services and medical supplies	100%	$0	$0
Durable medical equipment			
-First $[183] of Medicare-Approved Amounts*	$0	$0	$[183] (Part B deductible)
-Remainder of Medicare-Approved Amounts	80%	20%	$0

Plan N (continued)
Other Benefits—Not Covered by Medicare

Foreign Travel – Not Covered By Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective, January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1114 (June 1999), repromulgated LR 25:1495 (August 1999), amended LR 29:2449 (November 2003), LR 31:2918 (November 2005), LR 35:1121 (June 2009), LR 35:1121 (June 2009), amended LR 44:2190 (December 2018).

§596. Appendix A—Calculation Forms

MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR _____

Type[1] _____ SMSBP[2] _____
For the State of_____ Company Name _____
NAIC Group Code_____ NAIC Company Code _____
Address _____ Person Completing Exhibit _____
Title _____ Telephone Number _____

LINE		(a) Earned Premium[3]	(b) Incurred Claims[4]
1.	Current Year's Experience		
	a. Total (all policy years)		
	b. Current year's issues[5]		
	c. Net (for reporting purposes = 1a-1b		
2.	Past Year's Experience (all policy years)		
3.	Total Experience (Net Current Year + Past Year)		
4.	Refunds Last Year (Excluding Interest)		
5.	Previous Since Inception (Excluding Interest)		
6.	Refunds Since Inception (Excluding Interest)		
7.	Benchmark Ratio Since Inception (wee worksheet for Ratio 1)		
8.	Experienced Ratio Since Inception (Ratio 2) Total Actual Incurred Claims (line 3, col. b) / Total Earned Prem. (line 3, col. a)-Refunds Since Inception (line 6)		
9.	Life Years Exposed Since Inception If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.		
10.	Tolerance Permitted (obtained from credibility table)		

Medicare Supplement Credibility Table

Life Years Exposed	
Since Inception	Tolerance
10,000+	0.0%
5,000 – 9,999	5.0%
2,500 – 4,999	7.5%
1,000 – 2,499	10.0%
500 - 999	15.0%
If less than 500, no credibility.	

1. Individual, Group, Individual Medicare Select, or Group Medicare Select Only.
2. "SMSBP" = Standardized Medicare Supplement Benefit Plan—Use "P" for pre-standardized plans.
3. Includes Modal Loadings and Fees Charged
4. Excludes Active Life Reserves
5. This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratio"

11	Adjustment to Incurred Claims for Credibility Ratio 3 = Ratio 2 + Tolerance	

If Ratio 3 is more than Benchmark Ratio (Ratio 1), a refund or credit to premium is not required.
If Ratio 3 is less than the Benchmark Ratio, then proceed.

12.	Adjusted Incurred Claims (Total Earned Premiums (Line 3, col. a) - Refund Since Inception (line 6)] x Ratio 3 (line 11)	
13.	Refund = Total Earned Premiums (line 3, col. a) - Refunds Since Inception (line 6) - [Adjusted Incurred Claims (line 12) / Benchmark Ratio (Ratio 1)]	

If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to refunded or credited, a description of the refund or credit against premiums to be used must be attached to this form.

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

_____
Signature

_____
Name—Please Type

_____
Title

_____
Date

MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR

Type[1] _____ SMSBP[2] _____
For the State of_____ Company Name _____
NAIC Group Code_____ NAIC Company Code _____
Address _____
Person Completing Exhibit _____
Title _____ Telephone Number _____

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR GROUP POLICIES FOR CALENDAR YEAR _____

Type[1] _____ SMSBP[2] _____
For the State of_____ Company Name _____
NAIC Group Code_____ NAIC Company Code _____
Address _____ Person Completing Exhibit _____
Title _____ Telephone Number _____

(a)[3]	(b)[4]	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(o)[5]
Year	Earned Premiu	Factor	(b)x(c)	Cumulativ e Loss	(d)x(e)	Factor	(b)x(g)	Cumulativ e Loss	(h)x(i)	Policy Year Loss
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.80
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		5.445		0.811		0.87
9		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15+[6]		4.175		0.567		8.684		0.838		0.89
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: (l + n)/(k + m): _____

[1]Individual, Group, Individual Medicare Select, or Group Medicare Select Only.
[2]"SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans
[3]Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)
[4]For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.
[5]These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.
[6]To include the earned premium for all years prior to as well as the 15th year prior to the current year.

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR INDIVIDUAL POLICIES FOR CALENDAR YEAR _____

Type[1] _____ SMSBP[2] _____
For the State of_____ Company Name _____
NAIC Group Code_____ NAIC Company Code _____
Address _____ Person Completing Exhibit _____
Title _____ Telephone Number _____

(a)[3]	(b)[4]	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(o)[5]
Year	Earned Premium	Factor	(b)x(c)	Cumulative Loss Ratio	(d)x(e)	Factor	(b)x(g)	Cumulative Loss Ratio	(h)x(i)	Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.40
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15+[6]		4.175		0.493		8.684		0.725		0.77
Total:			(k):		(l):		(m):		(n):	

Benchmark Ratio Since Inception: (l + n)/(k + m): _____

[1]Individual, Group, Individual Medicare Select, or Group Medicare Select Only.
[2]"SMSBP" = Standardized Medicare Supplement Benefit Plan - Use "P" for pre-standardized plans
[3]Year 1 is the current calendar year - 1. Year 2 is the current calendar year - 2 (etc.) (Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)
[4]For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.
[5]These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.
[6]To include the earned premium for all years prior to as well as the 15th year prior to the current year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1132 (June 1999), repromulgated LR 25:1513 (August 1999), LR 29:2478 (November 2003), amended LR 31:2941 (November 2005), amended LR 44:2208 (December 2018).

§599. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1111 (re-designated from LSA-R.S. 22:224 pursuant to Acts 2008, No. 415, effective January 1, 2009) and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1142 (June 1999), repromulgated LR 25:1522 (August 1999), amended LR 29:2497 (November 2003), LR 31:2948 (November 2005), LR 35:1136 (June 2009), amended LR 44:2210 (December 2018).

James J. Donelon
Commissioner

1812#014

RULE

Department of Insurance
Office of the Commissioner

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

Editors Note: This Rule, originally printed on page 2008 of the November 20, 2018 issue of the *Louisiana Register*, is being reprinted to incorporate substantive changes printed in the August 20, 2018 issue of the *Louisiana Register* on pages 1561-1562.

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.

This 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. Amendments were also made to comport with the passage of Act 171 of the 2018 Regular Session of the Louisiana Legislature, which requires that a demand for a hearing be filed with the Commissioner of Insurance.

This Rule is hereby adopted upon the day of promulgation.

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

§10107. Filing and Review of Health Insurance Policy Forms and Related Matters

A. - I.1.a. …

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 Department of Insurance, pursuant to R.S. 22:2191.

I.1.c. - J. …

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Chapter 12 of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, any demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed to the aggrieved party at his last known address or delivered to the aggrieved party.

K. - K.3. …

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 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016), LR 44:2210 (December 2018), effective January 1, 2019.

§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 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. - J. …

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Chapter 12 of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, any demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed to the aggrieved party at his last known address or delivered to the aggrieved party.

K. - 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), LR 44:2210 (December 2018), effective January 1, 2019.

§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 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. - J. …

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of Chapter 12 of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, any demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed to the aggrieved party at his last known address or delivered to the aggrieved party.

K. - 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 44:2211 (December 2018), effective January 1, 2019.

§10119. Effective Date [Formerly §10117]

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective January 1, 2019.

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), LR 44:2211 (December 2018).

James J. Donelon
Commissioner

1812#070

RULE

Department of Insurance
Office of the Commissioner

Regulation 111—Consent to Rate
(LAC 37:XIII.Chapter 159)

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 specifically R.S. 22:11, R.S. 22:1464, and R.S. 22:1473, the Department of Insurance has promulgated Regulation 111 to implement the provisions of R.S. 22:1464, which permits an insurer, under certain circumstances and pursuant to certain requirements, to impose upon an insured a rate in excess of its filed and approved rates for a specific risk on a consent to rate basis and authorizes the Commissioner of Insurance to promulgate rules and/or regulations as he deems necessary to implement the provisions of Title 22. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 159. Regulation Number 111—Consent to Rate

§15901. Purpose

A. Regulation 111 implements the provisions of R.S. 22:1464.E, which authorizes the commissioner to approve an application by an insurer to impose upon an insured a rate in excess of the insurer's filed and previously approved rates for a specific risk, provided the insurer complies with certain obligations and provides certain information and documentation to the commissioner in order for the commissioner to approve the consent to rate application.

B. The purpose of Regulation 111 is:

1. to regulate the activities of insurers by setting forth the process for the filing and review of a consent to rate application and specifying the information and documentation that must accompany such application; and

2. to protect the interests of insureds who are the subject of a consent to rate request from an insurer by delineating the nature and type of information and documentation that an insured shall receive from the insurer in order for the insured to make an informed decision as to whether it is in the insured's best interest to consent to such excess rate, and to reduce or eliminate the use of misleading or confusing information when an insurer requests that the insured consent to a rate in excess of the rate otherwise filed and approved for use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15903. Applicability and Scope

A. Regulation 111 shall apply to any consent to rate application made by any insurer for any property and casualty insurance policy written or issued for delivery in Louisiana, or for any risk located in Louisiana, in which the insurer seeks to obtain the approval of the commissioner to charge a rate in excess of the rate provided in a filing otherwise applicable. Regulation 111 does not apply to individually rated excess insurance coverages as specified in R.S. 22:1464.A(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15905. Authority

A. Regulation 111 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:1 et seq., specifically R.S. 22:11 and R.S. 22:1473.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15907. Definitions

A. For the purposes of Regulation 111, the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Commissioner—the Louisiana Commissioner of Insurance.

Consent to Rate—an agreement between the insured and the insurer based on information provided by the insurer that insurance coverage will be provided for a specific risk at an excess rate, as defined herein.

Department—the Louisiana Department of Insurance.

Excess Rate—a rate that is more than the manual rate that the commissioner has previously approved for the insurance program. For the purposes of Regulation 111, "rate in excess" has the same meaning as "excess rate".

Insurance Program—every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule and every modification of any of the foregoing which an insurer proposes to use in the calculation of a premium to be charged for a policy.

Insurer—an insurer with a certificate of authority or license issued under provisions of the Louisiana Insurance Code.

Manual Rate—an approved rate for an insurance program.

Policy—an insurance contract providing property and casualty insurance coverage for a Louisiana insured or for property located in Louisiana.

Premium—all sums charged, received, or deposited as consideration for the purchase or continuation of insurance for a definitely stated term, and shall include any assessment, membership, policy, survey, inspection, service or similar fee or charge made by an insurer as a part of the consideration for the purchase or continuance of insurance, as defined in R.S. 22:46(13).

Rate—that cost of insurance per exposure unit, whether expressed as a single number or as a prospective loss cost, with an adjustment to account for the treatment of loss adjustment expenses, expenses, profit, and variation in expected future loss experience, prior to any application of individual risk variations based on actual past loss or expense considerations, and does not include minimum premiums.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15909. Procedure for Insurer to Use in a Consent to Rate Application

A. An insurer seeking the approval of the commissioner to charge an insured a rate in excess of the manual rate for property and casualty insurance coverage shall file a consent to rate application with the commissioner within 45 calendar days of the effective date of the policy.

B. The consent to rate application made by the insurer shall comply with the requirements of §15913 of Regulation 111.

C. The commissioner shall have 45 calendar days to review the consent to rate application, pursuant to R.S. 22:1451.C(1). The 45 day period for review shall commence once the commissioner has received the insurer's complete consent to rate application.

D. Any consent to rate application not received by the commissioner within 45 calendar days of the effective date of the policy shall be disapproved by the commissioner.

E. If a consent to rate application is disapproved by the commissioner, then the insurer shall follow the requirements set forth in §15911 of Regulation 111.

F. If a consent to rate application filed timely is approved by the commissioner, the insurer may proceed to implement the excess rate in accordance with the approved consent to rate application.

G. If the commissioner has not acted on a timely filed consent to rate application and the commissioner has not advised the insurer in writing of any objections with regard to the consent to rate application or that such application is incomplete within 45 days of the commissioner's receipt of same, the insurer may proceed as outlined in R.S. 22:1451.C(2).

H. Renewal of any policy at an excess rate shall require that the insurer submit a new consent to rate application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15911. Coverage Obligations Imposed on the Insurer upon Disapproval

A. If an insurer's consent to rate application under Regulation 111 is disapproved for any reason, then the premium charged to the insured shall revert to the approved manual rate for the duration of the policy term, and the insurer shall refund the difference between the excess rate and the approved manual rate to the insured. Coverage shall still be binding on the insured and insurer for the duration of the policy. The insurer shall have 30 days from the date of the commissioner's disapproval of the consent to rate application to refund any monies due to the insured.

B. If an insurer's consent to rate application under Regulation 111 is disapproved for any reason, then the insurer may, within 10 calendar days from the commissioner's disapproval, exercise one of the following options.

1. The insurer may cancel the policy and shall provide the insured with not less than 60 days' written notice of the insurer's intent to cancel the policy.

2. The insurer may enter into a new policy with the insured and submit a new, subsequent consent to rate application. However, if a new, subsequent consent to rate application is submitted, the insurer will be required to utilize the approved manual rate provided in such new, subsequent consent to rate application and will not be able to implement the requested excess rate until such new, subsequent consent to rate application is approved by the commissioner.

3. An insurer may appeal the disapproval of a consent to rate application as set forth in R.S. 22:1451.C(1).

C. After a consent to rate application has been disapproved, if the commissioner approves a new, subsequent consent to rate application, the excess rate so approved shall be implemented on a prospective basis from the date of approval for the duration of the policy term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2213 (December 2018).

§15913. Documentation Required from the Insurer

A. An insurer seeking the approval of the commissioner pursuant to a consent to rate application for any property and casualty insurance coverage shall file with the commissioner a written application packet, which shall contain the following documentation.

1. The consent to rate application shall set forth the full name of the insurer, the full name and title of the person filing such application on behalf of the insurer, the physical and mailing addresses of the insurer, email address, telephone number, and facsimile number of the insurer.

2. If the consent to rate application is submitted in paper form, a stamped, self-addressed return envelope.

3. An original of the consent to rate application signed by both the insurer and the insured, which must set forth the following information:

a. name of the insurer;

b. name of the insured;

c. the line of business;

d. if applicable, the sub-line or program under which the policy is being written;

e. the policy number;

f. the policy effective dates (the first and last dates on which the policy is effective);

g. documentation setting forth in detail the calculation of the premium using the manual rates;

h. documentation setting forth in detail the calculation of the premium using the consent to rate process;

i. the written explanation that was provided by the insurer to the insured setting forth in detail the reason(s) why the insured did not qualify for the insurer's manual rates and was subjected to the consent to rate process; and

j. a copy of any other documentation that the insurer provided to the insured.

B. The commissioner may request additional information and/or documentation as he deems necessary. In accordance with R.S. 22:1451.C(2), the commissioner shall make the final determination as to what constitutes a complete application under Regulation 111.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2213 (December 2018).

§15915. Severability

A. If any section or provision of Regulation 111 or the application to any person or circumstance is held to be invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 111 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 111 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2213 (December 2018).

§15917. Effective Date

A. Regulation 111 shall become effective on January 1, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2214 (December 2018).

James J. Donelon
Commissioner

1812#015

RULE

Department of Natural Resources
Office of Conservation

Commercial Facilities Hours of Operation
(LAC 43:XIX.533 and 537)

The Department of Natural Resources, Office of Conservation has amended 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 amendment implements Act 191 of the 2018 Regular Session, which repealed the commissioner's authority to regulate the hours of operation or receiving of offsite treatment, storage and disposal facilities of E and P Waste. This Rule is hereby adopted on the day of promulgation.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

NOTE: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3.

EDITOR'S NOTE: Statewide Order 29-B was originally codified in LAC 43:XIX as §129. In December 2000, §129 was restructured into Chapters 3, 4 and 5. Chapter 3 contains the oilfield pit regulations. Chapter 4 contains the injection/disposal well regulations. Chapter 5 contains the commercial facility regulations. A cross-reference chart in the December 2000 *Louisiana Register*, page 2798, indicates the locations for the rules in each existing Section.

EDITOR'S NOTE: Chapter 5 was amended in November 2001. A chart showing the restructuring of Chapter 5 is found on page 1898 of the *Louisiana Register*, November 2001.

§533. General Operational Requirements for Commercial Facilities and Transfer Stations

A. …

B. Commercial facilities and transfer stations shall be adequately manned during hours of receiving and off-loading of E and P Waste.

C. All facilities and systems for treatment, control, and monitoring (and related appurtenances) which are installed or used to achieve compliance with the conditions of a permit shall be properly operated and maintained at all times.

D. Inspection and entry by Office of Conservation personnel shall be allowed as prescribed in R.S. 30:4.

E. Discharges from land treatment cells, tanks, tank retaining walls and/or barges into man-made or natural drainage or directly into state waters will be allowed only after the necessary discharge permit has been obtained from the appropriate state and/or federal agencies and in accordance with the conditions of such permit.

F. A sign shall be prepared, displayed and maintained at the entry of each permitted commercial facility or transfer station. Such sign shall utilize a minimum of 1-inch lettering to state the facility name, address, phone number, and site code shall be made applicable to the activities of each facility according to the following example.

"This E and P Waste (storage, treatment and/or disposal) facility has been approved for (temporary storage, treatment and/or disposal) of exploration and production waste only and is regulated by the Office of Conservation. Violations shall be reported to the Office of Conservation at (225) 342-5515."

G.A vertical aerial color photograph (or series of photographs) with stereoscopic coverage of each Type A land treatment facility must be obtained during the month of October every two years and provided to the Office of Conservation by November 30 of the year the photo is taken. Such photograph(s) must be taken at an original photo scale of 1" = 1000' to 1" = 500' depending on the size of the facility. Photo(s) are to be provided as prints in either 8" x 10" or 9" x 9" formats. The commissioner may require more frequent aerial photos as deemed necessary.

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 27:1909 (November 2001), amended LR 44:2214 (December 2018).

§537. Hours of Receiving

Repealed.

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 27:1910 (November 2001), amended LR 31:2262 (September 2005), repealed LR 44:2214 (December 2018).

Richard P. Ieyoub
Commissioner

1812#064

RULE

Department of Public Safety and Corrections
Gaming Control Board

Reporting of Gaming Positions (LAC 42:III.1701 and 2704)

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 Procedures Act, R.S. 49:950 et seq., has amended LAC 42:III.1701, Definitions, and has adopted LAC 42:III.2704, Reporting of Gaming Positions. These Rule changes clarify practices already required to take place in the industry and create uniformity with the amended statutes and the newly enacted statutes as a result of Acts 469 and 575 of the 2018 Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

Title 42
LOUISIANA GAMING
Part III. Gaming Control Board
Chapter 17. General Provisions
§1701. Definitions

A. - B. …

* * *

Designated Gaming Area—

a. for the licensed eligible facility, the contiguous area of the eligible facility at which slot machine gaming may be conducted in accordance with the Act. Such designated gaming area shall not contain more than 1,632 gaming positions;

b. for the casino operator, those portions of the official gaming establishment in which gaming activities may be conducted. The designated gaming area shall not be less than 100,000 square feet of usable space;

c. for riverboats, that portion or portions of a riverboat in which gaming activities may be conducted. Such designated gaming area shall not exceed 2,365 gaming positions, subject to the rules and regulations of the board. Plans shall be submitted to and approved by the board or division, as applicable.

* * *

Gaming Position—a seat at an electronic gaming device or slot machine or a space beside a dice or other table game whereat patrons may game. For electronic gaming devices or slot machines that do not have seats or that have multiple seats, the number of gaming positions shall be determined by the number of persons that may wager during the game. For card tables, one gaming position shall be counted for each betting location indicated on the table layout. For roulette tables, one gaming position shall be counted for the number of different color of non-value table chips used at a table. For craps tables, a half table shall count as eight gaming positions and a full table shall count as sixteen gaming positions. For all other table games, the number of gaming positions shall be determined by the division. In accordance with R.S. 27:65(B)(15), licensees may conduct no more than four tournaments, each no more than 14 days in length, per year in which the gaming positions utilized for tournament play are not considered part of the licensee's total number of gaming positions.

* * *

Riverboat—a vessel or facility as defined in the Act where gaming may be conducted.

* * *

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 38:1601 (July 2012), amended LR 41:1496 (August 2015), amended LR 44:2215 (December 2018).

Chapter 27. Accounting Regulations
§2704. Reporting of Gaming Positions

A. On a quarterly basis, a licensee and casino operator shall provide a report to the division, no later than the 10th day following the reported quarter, containing the number of slot machines and table games along with a total number of gaming positions in its designated gaming area, which shall be certified by its general manager. In accordance with R.S. 27:65(B)(15), licensees may conduct no more than four tournaments, each no more than 14 days in length, per year in which the gaming positions utilized for tournament play are not considered part of the licensee's total number of gaming positions.

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 44:2215 (December 2018).

Ronnie Jones
Chairman

1812#007

RULE

Department of Public Safety and Corrections
Gaming Control Board

Riverboat Economic Development
(LAC 42:III.110, Chapter 21, 2401 and 2910)

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 Procedures Act, R.S. 49:950 et seq., has adopted Chapter 24 of Part III of Title 42 of the Administrative Code and has amended Sections 110, 2110, 2113, 2117, 2124, and 2910 of Part III of Title 42 of the Administrative Code. These rule changes clarify practices already required to take place in the industry and creates uniformity with the amended statutes and the newly enacted statutes as a result of Act 469 of the 2018 Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

Title 42
LOUISIANA GAMING
Part III. Gaming Control Board
Chapter 1. General Provisions
§110. Quarterly Submissions

A. - C. …

D. Riverboat licensees shall submit quarterly reports to the board, the Senate Committee on Judiciary B and the House Committee on the Administration of Criminal Justice in accordance with R.S. 27:46. Each riverboat licensee shall certify to the board that it has timely submitted the required

report in accordance with R.S. 27:46. Failure to timely submit the quarterly reports may result in administrative action being taken by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:304 (March 1997), amended LR 30:1703 (August 2004), LR 44:2215 (December 2018).

Chapter 21. Licenses and Permits

§2110. Plans and Specifications

A. Riverboat

1. Vessel. The applicant or licensee shall submit all plans and specifications of the vessel and its qualifications to operate a riverboat, including a statement of maritime experience as a riverboat operator, to the board and division. The applicant or licensee shall have an ongoing duty to update the division of changes in the vessel plans, specifying layout and design as they become available. Such changes are subject to prior approval by the board or division.

2. Facility. The applicant or licensee shall submit all plans and specifications of the facility to the board and the division at the time of application. The applicant or licensee shall have an ongoing duty to inform the division of changes in the facility plans, specifying layout and design as they become available. Such changes are subject to prior approval by the board or division.

B. - E. …

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 38:1610 (July 2012), amended LR 44:2216 (December 2018).

§2113. Licensing Criteria

A. - F. …

G. Riverboat Applicants

1. The applicant shall demonstrate a proven ability to operate a vessel of comparable size, capacity, and complexity so as to ensure the safety of its passengers as set forth in these regulations.

2. The applicant shall submit a detailed plan of design of the riverboat.

3. The applicant shall show adequate financial ability to construct and maintain a riverboat.

4. The applicant shall designate the docking facilities to be used by the riverboat.

5. The applicant shall have a good-faith plan to recruit, train, and upgrade minorities in all employment classifications.

6. The applicant shall have a plan to provide the maximum practical opportunities for participation by the broadest number of minority-owned businesses.

H. - I. …

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 38:1611 (July 2012), amended LR 44:2216 (December 2018).

§2117. Certification Required, Riverboat Only

A. Before any riverboat may be operated or may continue to operate under the authority of the Act, the applicant or, if the application has been approved, the licensee, shall provide to the division evidence as follows.

1. If operating on a certificated vessel, that the vessel has a valid certificate of inspection from the United States Coast Guard for carriage of passengers on navigable rivers, lakes, and bayous as provided by the Act and for the carriage of a minimum total of 600 passengers and crew; or

2. If operating on a non-certificated vessel as defined in R.S. 27:44, evidence that the riverboat has a valid certificate of compliance issued by the board based on the recommendation of an approved third-party inspector.

a. The sole inspection standard for non-certificated vessels is the guide for alternative inspection of riverboat gaming vessels as adopted and amended by the board.

b. A non-certificated vessel shall be inspected by the third-party inspector annually in accordance with R.S. 27:44.1. Non-compliant items identified by the third-party inspector will be remedied within the time period given. Failure to remedy any discrepancy timely shall be reported to the division by the third-party inspector and may result in sanctions including a civil penalty.

c. A non-certificated vessel shall be inspected quarterly by the licensee. The results of the inspection will be documented and made available to the division.

3. If operating in a facility, that the facility has a valid certificate of compliance as required by R.S. 27:44(24)(e) and 27:44.1(D)(1)(b).

B. The licensee shall submit a copy of all required certificates of compliance to the Senate Committee on Judiciary Section "B" and the House Committee on the Administration of Criminal Justice of the Louisiana Legislature within 25 days of receiving the certificate from the board. The licensee shall provide proof to the board of compliance with this Subsection. Failure to timely submit a certificate of compliance shall result in a civil penalty.

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 38:1612 (July 2012), amended LR 40:1380 (July 2014), LR 44:2216 (December 2018).

§2124. Additional Application Information Required, Riverboat Only

A. Every application for a riverboat license shall contain the following additional information, as applicable:

1. a statement that the vessel has or will obtain a valid certificate of inspection from the United States Coast Guard or valid certificate of compliance from a board-approved third party inspector;

2. if required to cruise and conduct excursions by the Act, the proposed route to be followed identifying the designated waterways; and a description of proposed excursions including frequency and approximate schedule of excursions, projected passenger load, admission charges, and a proposed berth site;

3. a statement that the facility has or will maintain a certification of compliance in accordance with R.S. 27:44.1(D)(1)(b).

B. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration or for denial of the application.

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 38:1614 (July 2012), amended LR 44:2216 (December 2018).

Chapter 24. Relocation of Gaming Operations

§2401. Relocation of Gaming Operations to a Facility, Procedure

A. Prior Approval

1. Prior written approval of the board is required to relocate gaming operations to a facility in accordance with R.S. 27:44(24)(e) and R.S. 27:67.

2. Failure to obtain approval from the board prior to relocating gaming operations to a facility may be grounds for administrative action against a licensee.

B. Application

1. A licensee desiring to relocate its gaming operations to a facility in accordance with R.S. 27:44(24)(e) and 27:67 shall file an application with the board, which application shall include the following:

a. a petition requesting approval to relocate all or a portion of its gaming operations to a facility as provided for in R.S. 27:44(24)(e) and 27:67;

b. a site plan designating the licensee's current approved berth site and the location of the proposed facility;

c. a legal property description of the land owned or leased by the licensee on which the facility is to be located;

d. a detailed capital improvement and reinvestment plan;

e. a plan for financing the proposed relocation, including any financing commitments;

f. a schedule for the commencement and completion of construction;

g. a comprehensive relocation plan, which shall include plans for staffing the facility, the moving and installation of gaming devices and equipment into the facility, security and surveillance for the facility, and a date for the commencement of gaming activities at the facility; and

h. any other information, documentation, plan, or description deemed relevant and requested by the board or division.

C. No licensee shall be allowed to commence gaming activities at a facility until the division has determined that all necessary staffing, training, security and surveillance, technical, accounting, and internal control procedures are acceptable.

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 44:2217 (December 2018).

Chapter 29. Operating Standards

§2910. Passenger Embarkation and Disembarkation, Riverboat Only

A. Except in the case of emergencies, passengers and crew may embark and disembark from a vessel only at its authorized berth.

B. ….

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 38:1657 (July 2012), amended LR 44:2217 (December 2018).

Ronnie Jones
Chairman

1812#008

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Military Surplus Motor Vehicles (LAC 55:III.337)

Under the authority of R.S. 32: 299.5 and 47:471, 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 military surplus motor vehicles. This §337 is new and implements the provisions of Act 675 of the 2018 Regular Session of the Louisiana Legislature which provide for titling and registration of military surplus motor vehicles. This Section is adopted and effective on December 20, 2018.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter 3. License Plates and Removal of Plates, Registrations, and Title Transactions

Subchapter A. Types of License Plates and Removal of Plates

§337. Military Surplus Motor Vehicles

A. Eligibility. Applicants for the military surplus motor vehicles specialty plate must be at least 21 years of age and possess a valid driver's license.

B. Requirements. To obtain a military surplus motor vehicles specialty plate, the applicant shall submit a certification form that the vehicle is capable of being safely operated on the highways of this state. Any military surplus motor vehicle found to be non-compliant to the requirements in R.S. 47:471, or otherwise deemed unsafe to be operated on the highways of this state are subject to the registration being suspended. A military surplus license plate shall be issued to military surplus vehicles. Military surplus vehicles registered to a public entity shall be issued a public plate. Military surplus plates used in a commercial capacity shall be issued the appropriate plate for the class as defined in R.S. 47:462. An affidavit of physical inspection will be required when there is an invalid character in the vehicle identification number or if the vehicle identification number fails the edit check. Any military surplus motor vehicle operated upon the highway of this state shall have liability insurance with the same minimum limits as required by the provisions of R.S. 32:900(B). A photocopy of the registration certificate of the vehicle on which the plate will be placed if the vehicle is currently registered. If the vehicle is not registered, proper title documentation and fees must be submitted along with the request for the military surplus motor vehicles specialty license plate.

C. Fee. The fee for issuance of a military surplus motor vehicles specialty license plate shall be the standard motor vehicle license tax imposed by article VII, section 5 of the constitution of Louisiana, based upon the make and model of the military surplus vehicle. The plates are subject to regular renewal requirements.

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 44:2217 (December 2018).

Lt. Col. Jason Starnes
Chief Administrative Officer

1812#020

RULE

Department of Public Safety and Corrections
Office of the State Fire Marshal
Uniform Construction Code Council

Uniform Construction Code—Tiny Houses (LAC 17:I.107)

In accordance with the provisions of R.S. 40:1730.26 and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules and in accordance with R.S. 49:953(B), the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has amended LAC 17:I.107. The purpose of amending the current Rule is to add the 2018 International Residential Code (IRC), Appendix Q, Tiny Houses, to the Uniform Construction Code. The Rule allows for the inspection and permitting of said homes in any jurisdiction in the state. It also allows for the inspection of tiny houses on-site and at manufacturing facilities, making them eligible for a residential permit. This Rule is hereby adopted on the day of promulgation.

Title 17
CONSTRUCTION
Part I. Uniform Construction Code

§107. International Residential Code (Formerly LAC 55:VI.301.A.3.a)

A.1. *International Residential Code*, 2015 Edition, not including Parts I-Administrative, and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the *International Residential Code*, and extensive alterations. 2018 International Residential Code, Appendix Q, Tiny Houses, with inspections on site and or in the manufacturing plant as required by the LSUCCC regulations. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission.

1.a. - 6.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2383 (November 2015), amended LR 42:1672 (October 2016), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 44:79 (January 2018); amended LR 44:2218 (December 2018).

Lt. Colonel Jason Starnes
Deputy Superintendent, CAO

1812#009

RULE

Department of Revenue
Policy Services Division

Sourcing of Sales other than Sales of Tangible Personal Property; Exclusion of Certain Sales of Tangible Personal Property from the Sales Factor (LAC 61:I.1135 and 1136)

Under the authority of R.S. 47:1511 and R.S. 47:287.95 and pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1135 and 1136.

The primary purpose of these regulations is to implement Act 8 of the 2016 Second Extraordinary Session of the Louisiana Legislature. 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 11. Corporation Income Tax

§1135. Sourcing of Sales other than Sales of Tangible Personal Property

A. General. R.S. 47:287.95(L) provides for the inclusion in the numerator of the sales factor of sales other than sales of tangible personal property.

B. Market-Based Sourcing. Sales other than sales of tangible personal property are sourced to Louisiana if and to the extent that the taxpayer's market for the sales is in Louisiana. In general, the provisions in this section establish rules for:

1. determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Louisiana,

2. reasonably approximating the state or states of assignment where the state or states cannot be determined,

3. excluding certain sales of intangible property from the numerator and denominator of the receipts factor pursuant to R.S. 47:287.95(L)(1)(e), and

4. excluding sales from the numerator and denominator of the sales factor, pursuant to R.S. 47:287.95(M), where the state or states of assignment cannot

be determined or reasonably approximated, or where the taxpayer is not taxable in the state to which the sales are assigned.

C. Taxable in another State. A taxpayer is taxable within another state if it meets either one of two tests:

1. by reason of business activity in another state, the taxpayer is subject to one of the following types of taxes: A net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

2. by reason of such business activity, another state has jurisdiction to subject the taxpayer to a net income tax, regardless of whether or not the state imposes such a tax on the taxpayer.

D. State. For purposes of this regulation, *state* means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

E. General Principles of Application; Contemporaneous Records. In order to satisfy the requirements of this regulation, a taxpayer's assignment of sales other than sales of tangible personal property must be consistent with the following principles:

1. A taxpayer shall apply the rules set forth in this regulation based on objective criteria and shall consider all sources of information reasonably available to the taxpayer at the time of its tax filing, including, without limitation, the taxpayer's books and records kept in the normal course of business. A taxpayer shall determine its method of assigning sales in good faith, and apply it consistently with respect to similar transactions and year to year. A taxpayer shall retain contemporaneous records that explain the determination and application of its method of assigning its sales, including its underlying assumptions, and shall provide those records to the Secretary of the Louisiana Department of Revenue upon request.

2. This regulation provides various assignment rules that apply sequentially in a hierarchy. For each sale to which a hierarchical rule applies, a taxpayer must make a reasonable effort to apply the primary rule applicable to the sale before seeking to apply the next rule in the hierarchy (and must continue to do so with each succeeding rule in the hierarchy, where applicable). For example, in some cases, the applicable rule first requires a taxpayer to determine the state or states of assignment, and if the taxpayer cannot do so, the rule requires the taxpayer to reasonably approximate the state or states. In these cases, the taxpayer must attempt to determine the state or states of assignment (i.e., apply the primary rule in the hierarchy) in good faith and with reasonable effort before it may reasonably approximate the state or states.

3. A taxpayer's method of assigning its sales, including the use of a method of approximation, where applicable, must reflect an attempt to obtain the most accurate assignment of sales consistent with these regulatory standards rather than an attempt to lower the taxpayer's tax liability. A method of assignment that is reasonable for one taxpayer may not necessarily be reasonable for another taxpayer, depending upon the applicable facts.

F. Rules of Reasonable Approximation

1. In General. In general, this regulation establishes uniform rules for determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Louisiana. This regulation also sets forth rules of reasonable approximation, which apply if the state or states of assignment cannot be determined. In some instances, the reasonable approximation must be made in accordance with specific rules of approximation as prescribed in this regulation. In other cases, the applicable rule in this regulation permits a taxpayer to reasonably approximate the state or states of assignment, using a method that reflects an effort to approximate the results that would be obtained under the applicable rules or standards set forth in this regulation.

2. Approximation Based Upon Known Sales. In an instance where, applying the applicable rules set forth for sale of a service, a taxpayer can ascertain the state or states of assignment of a substantial portion of its sales from sales of substantially similar services ("assigned sales"), but not all of those sales, and the taxpayer reasonably believes, based on all available information, that the geographic distribution of some or all of the remainder of those sales generally tracks that of the assigned sales, it shall include those sales which it believes tracks the geographic distribution of the assigned sales in its sales factor in the same proportion as its assigned sales.

3. Related-Party Transactions; Information Imputed from Customer to Taxpayer. Where a taxpayer has sales subject to this regulation from transactions with a related-party customer, information that the customer has that is relevant to the sourcing of receipts from these transactions is imputed to the taxpayer.

G. Rules with Respect to Exclusion of Receipts from the Receipts Factor

1. The sales factor only includes those amounts defined as sales under applicable statutes and regulations.

2. Certain sales arising from the sale of intangibles are excluded from the numerator and denominator of the sales factor pursuant to R.S. 47:287.95 (L)(1)(e).

3. In a case in which a taxpayer cannot ascertain the state or states to which sales are to be assigned pursuant to the applicable rules set forth in this regulation, (including through the use of a method of reasonable approximation, where relevant) using a reasonable amount of effort undertaken in good faith, the receipts must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95 (M).

4. In a case in which a taxpayer can ascertain the state or states to which sales are to be assigned pursuant to this regulation, but the taxpayer is not taxable in one or more of those states, the sales that would otherwise be assigned to those states where the taxpayer is not taxable must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).

H. Sale of a Service

1. General Rule

a. The sale of a service is sourced to Louisiana if and to the extent that the service is delivered to a location in Louisiana. In general, the term "delivered to a location"

refers to the location of the taxpayer's market for the service, which may not be the location of the taxpayer's employees or property. The rules to determine the location of the delivery of a service in the context of several specific types of service transactions are set forth below.

2. Direct Personal Services Received by a Natural Person

a. In General

i.(a). Except as otherwise provided in this regulation, direct personal services are services that are physically provided in person by the taxpayer, where the customer or the customer's tangible property upon which the services are performed is in the same location as the service provider at the time the services are performed. This rule includes situations where the services are provided on behalf of the taxpayer by a third-party contractor. Examples of direct personal services include, without limitation: cleaning services; pest control; medical and dental services, including medical testing, x-rays and mental health care and treatment; child care; hair cutting and salon services; live entertainment and athletic performances; and in-person training or lessons. Direct personal services include services within the description above that are performed at:

[i]. a location that is owned or operated by the service provider or

[ii]. a location of the customer, including the location of the customer's tangible property.

(b). Various professional services, including legal, accounting, financial and consulting services, and other similar services, although they may involve some amount of direct person contact, are not treated as direct personal services within the meaning of this regulation.

b. Assignment of Sales

i. Rule of Determination. Except as otherwise provided in this regulation, if the service provided by the taxpayer is a direct personal service, the service is delivered to the location where the service is received. Therefore, the sale is in Louisiana if and to the extent the customer receives the direct personal service in Louisiana. In assigning its sales from direct personal services, a taxpayer must first attempt to determine the location where a service is received, as follows:

(a). If the service is performed with respect to the body of an individual customer in Louisiana (e.g. hair cutting or x-ray services) or in the physical presence of the customer in Louisiana (e.g. live entertainment or athletic performances), the service is received in Louisiana.

(b). If the service is performed with respect to the customer's immovable property in Louisiana or if the service is performed with respect to the customer's tangible personal property at the customer's residence in Louisiana or in the customer's possession in Louisiana, the service is received in Louisiana.

(c). If the service is performed with respect to the customer's tangible personal property and the tangible personal property is to be received by the customer at the taxpayer's location in Louisiana, the service is received in Louisiana.

(d). If the service is performed with respect to the customer's tangible personal property and the tangible personal property is to be shipped or delivered to the customer, whether the service is performed within or outside Louisiana, the service is received in Louisiana if the property is shipped or delivered to the customer in Louisiana.

c. Rule of Reasonable Approximation. In an instance in which the state or states where a service is actually received cannot be determined, but the taxpayer has sufficient information regarding the place of sale from which it can reasonably approximate the state or states where the service is received, the taxpayer shall reasonably approximate such state or states. If the state to which the sales are to be assigned can be determined or reasonably approximated, but the taxpayer is not taxable in that state, the receipts that would otherwise be assigned to the state are excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).

3. Non Direct Personal Services Received by a Natural Person. Non direct personal services delivered to a natural person shall be sourced to the customer's billing address.

a. Non direct personal services include, without limitation, management services, bank and financial services, financial custodial services, investment and brokerage services, fiduciary services, tax preparation, payroll and accounting services, lending services, credit card services (including credit card processing services), data processing services, legal services, consulting services, video production services, graphic and other design services, engineering services, and architectural services.

b. *Billing address* means the location indicated in the books and records of the taxpayer as the primary mailing address relating to a customer's account as of the time of the transaction as kept in good faith in the normal course of business and not for tax avoidance purposes.

4. Services Delivered to an Unrelated Business Entity

a. Services with a Substantial Connection to a Specific Geographic Location

i. Services provided to an unrelated business entity that have a substantial connection to a specific geographic location shall be sourced to the state of the specific geographic location. If the services have a substantial connection to specific geographic locations in more than one state, the services shall be reasonably sourced between those states.

ii. Examples

(a). Cleaning Company, Inc. (taxpayer) has a contract to provide cleaning services to Company A, an unrelated business entity. The contract specifies that cleaning services are to be provided to company A's locations in Louisiana and other states. Cleaning Company, Inc. should source a portion of the total service receipts to Louisiana based on the amount of services performed at company A's locations in Louisiana compared to the total amount of services performed at all of company A's locations.

(b). Training Company, Inc. (taxpayer) contracts with company B, an unrelated business entity, to provide on-site training services to company B's employees at company B's business offices located in Louisiana and three other states. The services are related to specific geographic locations; therefore they should be sourced to the state where company B's employees received the training. Training Company, Inc. should source the receipts from its contract with company B by reasonably assigning those receipts

between Louisiana and the three other states using a formula based on the number of training hours provided to company B locations in Louisiana to the total number of training hours provided to all company B locations.

(c). Engineering Company, Inc. (taxpayer) contracts with company C, an unrelated business entity, to provide engineering services related to the construction of an office complex in Louisiana. Engineering Company, Inc. performs some of their service in Louisiana at the building site and additional service in state B at their headquarters. The engineering services are related to a specific geographic location; i.e. the building site in Louisiana; therefore all of the services should be sourced to Louisiana.

b. Services without a Substantial Connection to a Specific Geographic Location

i. Services provided to an unrelated business entity that do not have a substantial connection to a specific geographic location shall be sourced to the state of the taxpayer's commercial domicile.

ii. *Commercial domicile* is the principal place from which the business is directed or managed.

c. Alternative Methods. In the case where the methods contained in Subparagraphs H.4.a and H.4.b of this section fail to clearly reflect the taxpayer's market in Louisiana, the taxpayer may utilize, or the department may require, the use of alternative methods, including but not limited to the following:

i. By assigning the sales to the state where the contract of sale is principally managed by the customer:

(a). state where a contract of sale is principally managed by the customer" means the primary location at which an employee or other representative of a customer serves as the primary contact person for the taxpayer with respect to the day-to-day execution and performance of a contract entered into by the taxpayer with the customer.

ii. by assigning the sales to the customer's place of order;

iii. by assigning the sales to the customer's billing address; provided, however, in any instance in which the taxpayer derives more than 5 percent of its receipts from sales of all services from a customer, the taxpayer is required to identify the state in which the contract of sale is principally managed by the customer.

5. Services Delivered to a Related Business Entity. In any instance in which the service is sold to a related entity, the state or states to which the service is assigned is the place of receipt by the related entity as reasonably approximated using the following hierarchy:

a. if the service primarily relates to specific operations or activities of a related entity conducted in one or more locations, then to the state or states in which those operations or activities are conducted in proportion to the related entity's payroll at the locations to which the service relates in the state or states; or

b. if the service does not relate primarily to operations or activities of a related entity conducted in particular locations, but instead relates to the operations of the related entity generally, then to the state or states in which the related entity has employees, in proportion to the related entity's payroll in those states.

I. Sale, Rental, Lease, or License of Immovable Property. In the case of the sale, rental, lease, or license of immovable property, the receipts are sourced to Louisiana if and to the extent that the immovable property is located in Louisiana.

J. Rental, Lease, or License of Tangible Personal Property. In the case of the rental, lease, or license of tangible personal property, the receipts are sourced to Louisiana if and to the extent that the tangible personal property is located in Louisiana.

K. Lease or License of Intangible Property. In the case of the lease or license of intangible property, the receipts are sourced to Louisiana if and to the extent that the intangible property is used in Louisiana.

L. Sale of Intangible Property

1. Assignment of Sales. The assignment of sales to a state or states in the instance of a sale or exchange of intangible property depends upon the nature of the intangible property sold.

2. Sale Where Receipts are Contingent on Productivity, Use or Disposition of the Intangible Property

a. In the case of a sale or exchange of intangible property where the receipts from the sale or exchange are contingent on the productivity, use or disposition of the property, the receipts from the sale are assigned as follows:

i. the receipts are in Louisiana if and to the extent the intangible is used in Louisiana. In general, the term *use* is construed to refer to the location of the market for the use of the intangible property that is being sold and is not to be construed to refer to the location of the property or payroll of the owner.

3. Contract Right or Government License that Authorizes Business Activity in Specific Geographic Area

a. In the case of a sale or exchange of intangible property where the property sold or exchanged is a contract right, government license or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, the sale is assigned to a state if and to the extent that the intangible property is used or is authorized to be used within the state. If the intangible property is used or may be used only in this state, the taxpayer shall assign the sale to Louisiana. If the intangible property is used or is authorized to be used in Louisiana and one or more other states, the taxpayer shall assign the sale to Louisiana to the extent that the intangible property is used in or authorized for use in Louisiana through the means of a reasonable approximation.

4. Excluded Sales

a. Sales of intangible property not described by Paragraphs 2 and 3 of this Subsection shall be excluded from the numerator and the denominator of the sales factor. Excluded sales include, but are not limited to, the sale of a partnership interest, the sale of business "goodwill," the sale of an agreement not to compete, and sales of similar intangible property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:287.95.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 44:2218 (December 2018).

§1136. Exclusion of Certain Sales of Tangible Personal Property from the Sales Factor

A. General sourcing rule for sales of tangible personal property. Generally, for purposes of determining a taxpayer's Louisiana Apportionment Percent, sales of tangible personal

property are sourced to the location where the tangible personal property is ultimately received by the purchaser.

B. Exclusion. Pursuant to R.S. 47:287.95(M), sales, including sales of tangible personal property, shall be excluded from both the numerator and the denominator of the sales factor if either of the following conditions apply:

1. the taxpayer is not taxable in a state to which a sale is assigned; or

2. the state of assignment cannot be determined or reasonably approximated pursuant to R.S. 47:287.95 and the regulations thereunder.

C. Taxable in Another State. A taxpayer is taxable within another state if it meets either one of two tests:

1. by reason of business activity in another state, the taxpayer is subject to one of the following types of taxes: A net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

2. by reason of such business activity, another state has jurisdiction to subject the taxpayer to a net income tax, regardless of whether or not the state imposes such a tax on the taxpayer.

D. State. For purposes of this regulation, *state* means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

E. Reasonable Approximation, Generally. In a case in which a taxpayer cannot ascertain the state or states to which sales are to be assigned pursuant to the applicable rules set forth in this regulation, (including through the use of a method of reasonable approximation, where relevant) using a reasonable amount of effort undertaken in good faith, the receipts must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).

F. Rules of Reasonable Approximation

1. Approximation Based Upon Known Sales. In an instance where, applying the applicable rules set forth for sales of tangible personal property, a taxpayer can ascertain the state or states of assignment of a substantial portion of its sales from sales of substantially similar tangible personal property, (assigned sales), but not all of those sales, and the taxpayer reasonably believes, based on all available information, that the geographic distribution of some or all of the remainder of those sales generally tracks that of the assigned sales, it shall include those sales which it believes tracks the geographic distribution of the assigned sales in its sales factor in the same proportion as its assigned sales.

2. Related-Party Transactions—Information Imputed from Customer to Taxpayer. Where a taxpayer has sales subject to this regulation from transactions with a related-party customer, information that the customer has that is relevant to the sourcing of receipts from these transactions is imputed to the taxpayer.

3. Approximation Based on Place of Sale. In an instance in which the state or states where tangible personal property is actually received cannot be determined, but the taxpayer has sufficient information regarding the place of sale from which it can reasonably approximate the state or states where the tangible personal property is received, the taxpayer shall reasonably approximate such state or states as the place of sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:287.95.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 44:2221 (December 2018).

Kimberly Lewis Robinson
Secretary

1812#027

RULE

Department of State
Office of the Secretary of State

Non-Statutory Departmental Fees (LAC 4:I.401)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:1293, R.S. 36:742, and R.S. 49:222(A), the Department of State has amended the non-statutory fee schedule for the Department of State. This Rule is hereby adopted on the day of promulgation.

Title 4
ADMINISTRATION
Part I. General Provisions
Chapter 4. Department of State
§401. Department of State Non-Statutory Fee Schedule

A. The Department of State has established non-statutory fee schedules for various filings, services, and publications. If a product referred to in the schedules shown below has to be mailed, the cost for mailing said product would be added to the fee charged.

1. - 3. ...

* * *

4. Election Services—Publications

Item	Fee
Bond Registration Certificate (Municipal Bonds) (Optional)	$10.00
Certified Copy (Per Document) (In Addition to $0.25 Per Page Fee)	$20.00
Certified Copy of "Living Will" Declaration Registration	$20.00
"Living Will" Replacement of Identification Card	$5.00
Proces Verbal	
Recordation	$10.00
Proces Verbal (Cost Per Page)	$2.00
Public Officials Signature Registration Certificate	$10.00
Publications	
Ballot Box	$5.00
Buckram Bound Acts of Legislature	
2010/I, II and III (2010 Regular Session)	$172.00
2011/I and II (2011 Regular and 1st Extraordinary Sessions)	$120.00
2012/I, II and III (2012 Regular Session)	$174.00
2013/I and II (2013 Regular Session)	$120.00
2014/I, II and III (2014 Regular Session)	$170.00
2015/I and II (2015 Regular Session)	$205.00
2016/I, II and III (2016 Regular Session and 1st and 2nd Extraordinary Sessions)	$340.00
2017/I and II (2017 Regular Session and 1st and 2nd Extraordinary Sessions)	$250.00
Future Issues (Printed Annually) *	Varies
Code of Governmental Ethics	$5.00
Corporation Law	$25.00

Item	Fee
Election Code	$20.00
Lawrason Act	$5.00
Legislative Calendar of the Legislature	$25.00
Official Journal of the Proceedings of the House of Representatives	$25.00
Official Journal of the Proceedings of the Senate	$25.00
Report of Secretary of State CY 2009 and CY 2010	$63.00
Report of Secretary of State CY 2011 and CY 2012	$60.00
Report of Secretary of State CY 2013 and CY 2014	$70.00
Report of Secretary of State CY 2015 and CY 2016	$40.00
Report of Secretary of State (Future Issues) (Printed Bi-Annually) **	Varies
Roster of Officials 2012	$25.00
Roster of Officials 2016	$30.00
Roster of Officials (Future Issues) (Printed Every 4 Years) **	Varies

The department shall publish the cost in *The Advocate* annually for these publications and will post the costs on the department's website after the cost for each publication is determined.

*Pursuant to R.S. 43:22, the formula for the cost for publishing the Buckram Bound Acts of Legislature is as follows: Printing Estimate + 10 Percent of the Printing Cost +Postage/Quantity of Books Ordered.

**The cost for these publications may vary and is based upon the following: Printing Estimate + Department Staff Costs + Postage/Quantity of Books Ordered.

5. State Archives Division – Archives Reproduction and Research Section [1]

Item	Fee
Digital Imaging—	
600 Pixels Per Inch .TIFF Digital Image (Not for Commercial Use) (For Existing Original Photograph Collections Only) (See Reproduction Rights Fee) 3	$10.00
Reproduction Rights Fee (Commercial Use Only) (Per Image) 4	$100.00
Legislative Committee Audio Tapes Reproduction --	
For Public (Archives Provides Tape) (Cost Per Tape or Digital Recording)	$20.00
For State Agency (Archives Provides Tape) (Cost Per Tape or Digital Recording)	$10.00
Photocopy Reproduction—	
Confederate Pension Records Applications (Per Individual) (Cost Per One Application)	$20.00
Military Service Records (Confederate Soldiers Military Records From Louisiana and World War I Discharge Records) (Cost Per Individual)	$15.00
Other Historical Documents (Per Act 602 of the 2006 Regular Legislative Session) (Louisiana Governmental Agencies Only) (Cost Per Set)	$10.00
Proces Verbal (Archived Records Only)	
Certification	$20.00
Proces Verbal (Cost Per Page)	$2.00
Self-Service Copy Charges—	
Book Scanner Prints (Cost Per Page)	$0.25
Computer Printouts (Cost Per Page)	$0.25
Microfilm Prints (Cost Per Page)	$0.50
Photocopies (Cost Per Page)	$0.25
Staff Reproduction of Archival Material—	
Document Certification (Cost Per Record)	$20.00
Public Vital Records (Certified) (Cost Per Record)	$10.00
Public Vital Records (Certified Letter of "No Record After Reasonable Search") (Per Individual) (Vital Records Only)	$20.00
Public Vital Records, Photocopy (Non-Certified) (Cost Per Record)	$5.00

[1] Fees are for research and must be collected for both successful and unsuccessful searches. No research will be conducted until payment is received. As such, email requests will only be taken with approved bankcard prepayment.

* * *

A.5.a. - B.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1447, R.S. 9:2782, R.S. 18:1293, R.S. 24:172, R.S. 24:173.1, R.S. 25:1282, R.S. 25:1284, R.S. 36:742, R.S. 40:1151.2, R.S. 43:19, R.S. 43:22, R.S. 44:1 et seq., R.S. 44:402, R.S. 44:405, R.S. 44:406, R.S. 44:408, R.S. 44:415, R.S. 44:420, R.S. 44:421, R.S. 49:222(A), R.S. 49:227, R.S. 49:228, Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, and Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (22 CFR 96).

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 43:2537 (December 2017), amended LR 44:2222 (December 2018).

R. Kyle Ardoin
Secretary of State

1812#041

RULE

Department of Treasury
Board of Trustees of the Louisiana State Employees' Retirement System

State Employees' Retirement System
(LAC 58:I.Chapter 11, 1707 and Chapter 25)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended in part and repealed in part provisions contained in Chapters 11, 17 and 25 of Part I of LAC Title 58. Section 1101(B)(2) is repealed as it referred to a group insurance plan that is no longer administered by the Louisiana Workforce Commission. Section 1107.D is amended to allow case-by-case exceptions to the requirement that vendors submit only one deduction file per month. Section 1115 is amended to remove the requirement that vendors report changes in company status or principal officers. Sections 1707, 2505, 2507, 2509, 2511 and 2519 are repealed in their entirety because they are redundant. This Rule is hereby adopted on the day of promulgation.

Title 58
RETIREMENT
Part I. Louisiana State Employees' Retirement System
Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. Application Process for Voluntary Payroll Deduction

A. - B.1. …

2. Repealed.

B.3. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:676 (April 2007), LR 34:1639 (August 2008), LR 44:2223 (December 2018).

§1107. Deduction Authorization

A. - C. ….

D. Vendor is responsible for submitting a computer file of monthly deductions to LASERS by the twelfth day of the month preceding the deduction using the electronic format

and specifications established by LASERS. All deductions for a single vendor shall be submitted on one monthly file: exceptions must be approved on a case-by-case basis by the Executive Director.

E. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 35:2478 (November 2009), LR 44:2223 (December 2018).

§1115. Reporting

A. Vendors shall report within 10 days of final approval any change in the name, address, or designated coordinator to LASERS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 35:2478 (November 2009), LR 44:2224 (December 2018).

Chapter 17. Purchases of Service by Reinstated Employees

§1707. Repayment of Refund of Contributions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 25:2467 (December 1999), repealed LR 44:2224 (December 2018).

Chapter 25. Procedures for Processing Disability Applications

§2505. Final Determination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:1580 (September 2001), repealed LR 44:2224 (December 2018).

§2507. Contesting Board Physician's Determination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:1581 (September 2001), repealed LR 44:2224 (December 2018).

§2509. Judicial Appeal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:1581 (September 2001), repealed LR 44:2224 (December 2018).

§2511. Certification of Continuing Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:220.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 26:1490 (July 2000), LR 27:1581 (September 2001), LR 32:265 (February 2006), LR 38:836 (March 2012), repealed LR 44:2224 (December 2018).

§2519. Termination of Benefits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:1582 (September 2001), repealed LR 44:2224 (December 2018).

Cindy Rougeou
Executive Director

1812#016

RULE

Department of Treasury
Board of Trustees of the Teachers' Retirement System

Charter Schools (LAC 58:III.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:826 the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) has repealed LAC 58:III.301, Re-Employment of Retirees, and adopted LAC 58:III.301 and 303 relative to charter schools, to clarify TRSL membership provisions for employees of non-profit corporations holding more than one approved charter and to repeal obsolete and superseded rule provisions relating to retirees who return to work at charter schools. This Rule is hereby adopted on the day of promulgation.

Title 58
RETIREMENT
Part III. Teachers' Retirement System of Louisiana
Chapter 3. Charter Schools

§301. Definitions

A. Whenever used in this chapter, each of the following terms has the meaning stated below.

Participating Charter School—a charter school whose approved charter provides for membership in the Teachers' Retirement System of Louisiana in accordance with R.S. 17:3997.

School-Based Employee—an employee assigned to work solely for a participating charter school.

School-Based Services—services performed at a participating charter school or related to a student or students enrolled in a participating charter school.

System—the Teachers' Retirement System of Louisiana

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 44:2224 (December 2018).

§303. Membership

A. For a nonprofit corporation operating multiple approved charter schools in the state with at least one participating charter school, but where not all of the

nonprofit corporation's approved charter schools in the state are participating charter schools, system membership of employees who are assigned to work (for all or part of their time) at a participating charter school shall be determined as follows.

1. An employee assigned to work as a school-based employee shall be deemed to be employed in a public elementary or secondary school in the state for purposes of eligibility for any and all retirement benefits which would otherwise accrue under state law to such an employee in any other elementary or secondary school.

2. An employee who is not a school-based employee, but who performs school-based services shall be deemed to be employed in a public elementary or secondary school in the state for purposes of eligibility for any and all retirement benefits which would otherwise accrue under state law to such an employee in any other elementary or secondary school, provided system membership is not prohibited by R.S. 11:162.

a. When applying the provisions of R.S. 11:162, the number of hours the employee performs school-based services at the participating charter school or schools, as applicable, shall be used to determine the nature of employment with respect to a participating charter school or schools.

b. If system membership is not prohibited by R.S. 11:162, all earnable compensation attributable to the employee's performance of school-based services at the participating charter school or schools shall be reported to the system in accordance with applicable law.

3. An employee who is not a school-based employee and who does not perform school-based services shall not be eligible for system membership.

B. Notwithstanding the provisions of Subsection A, if all of the approved charters in the state held by a nonprofit corporation are participating charter schools, the employees of the nonprofit corporation who are employed for the purposes of operating the charter schools shall be deemed to be employed in a public elementary or secondary school in the state for purposes of eligibility for any and all retirement benefits which would otherwise accrue under state law to such an employee in any other elementary or secondary school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 44:2224 (December 2018).

Dana L. Vicknair
Director

1812#028

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services
Licensing Section

Child Placing Agencies
(LAC 67:V.Chapter 73)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) proposes to repeal and replace LAC 67:V, Subpart 8, Chapter 73, Child Placing Agencies—General Provisions.

The proposed Rule will repeal all sections in LAC 67:V, Subpart 8, Chapter 73 and replace with Sections 7301, 7303, 7305, 7307, 7309, 7311, 7313, 7315, 7317, 7319, 7321, and 7323. According to R.S. 46:1407(D), a comprehensive review of licensing standards is mandated every three years. The proposed Rule clarifies existing standards and incorporates new standards to protect the safety and well-being of children and youth placed in foster homes, adoptive homes, and transitional placing living arrangements. In addition, the proposed Rule intends to ensure that children and youth are placed in safe and appropriate homes, according to the requirements of Public Law 115-123.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 73. Child Placing Agencies—General Provisions

§7301. Purpose

A. In accordance with R.S. 46:1402, it is the intent of the legislature to protect the health, safety, and well-being of the children and youth of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of this chapter to establish statewide minimum standards for the safety and well-being of children and youth, to insure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to insure protection of all individuals under care by specialized providers and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate. This chapter shall not give the Department of Health and Hospitals or the Department of Children and Family Services jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any curriculum or instruction of a school or specialized provider sponsored by a church or religious organization so long as the civil and human rights of the children and youth are not violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7303. Authority—Foster Care, Adoption, Transitional Placing

A. Legislative Provisions

1. The Specialized Provider Licensing Act, Act 286 of 1985 as amended (R.S. 46:1401et seq.) is the legal authority under which the department prescribes minimum standards for the health, safety, and well-being of children placed in foster care and adoption. The rules are in LAC 67:V., Subpart 8, Chapter 73.

2. In accordance with R.S.46:1403.1, notwithstanding any other provision of law to the contrary, a child in foster care may stay in foster care until his twenty-first birthday to complete any educational course that he began while in foster care including but not limited to a General Education Development course.

3. Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1978 and Act 429 of 1981 authorizes the Louisiana Legislature to make permanency planning for children in foster care a matter of federal and state law and public social policy.

4. Public Law 103-382, the Multiethnic Placement Act of 1994, as amended by Public Law 104-188, the Interethnic Placement Act, the U.S. Constitution, and Title VI of the Civil Rights Act of 1964 provide that an entity which receives federal financial assistance and is involved in adoption or foster care placements may not discriminate on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved. Providers receiving federal funds may not use standards related to income, age, education, family structure and size, or ownership of housing to exclude groups of prospective parents on the basis of race, color, or national origin, where these standards are arbitrary or unnecessary or where less exclusionary standards are available.

5. Providers shall comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. (ADA) and regulations promulgated pursuant to the ADA, 28 C.F.R. Parts 35 and 36 and 49 C.F.R. Part 37; §504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, and regulations promulgated pursuant thereto, including 45 C.F.R. Part 84, which includes the right to receive services in the most integrated setting appropriate to the needs of the individual; obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); receive auxiliary aids and services to enable equally effective communication; equivalent transportation services; and physical access to a provider's facilities.

6. Providers shall comply with the requirements of Children's Code 1167 et seq. with regard to adoptions.

B. Facilities Requiring a License

1. In accordance with R.S. 46:1403, a child placing agency means any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing children in foster care or with substitute parents for temporary care or for adoption, or engaged in assisting or

facilitating the adoption of children, or engaged in placing youth in transitional placing programs, but shall not mean a person who may occasionally refer children for temporary care.

2. Any agency applying for a child placing agency license in Louisiana shall have an office and staff in Louisiana.

3. Any out-of-state agency placing a child in Louisiana shall have a license issued by the state in which the main office is located and either make placements in Louisiana in cooperation with the Interstate Compact on the Placement of Children (ICPC) and a child placing agency licensed in Louisiana or have an office and staff in Louisiana with a Louisiana child placing agency license.

4. All child placing agency locations shall be licensed; satellite and branch offices are not permitted.

C. Exemptions

1. In accordance with R.S. 46:1415, all care given without charge, shall be exempt from provisions of R.S. 46:1401 et seq.

2. In accordance with R.S.46:1404, child placing agencies within the Department of Children and Family Services shall be exempt from the provisions of R.S. 46:1401 et seq. The department is authorized and mandated to perform its child-placing functions in accordance with the standards promulgated by the department for licensed child-placing agencies.

D. Penalties

1. As mandated by R.S. 46:1421, whoever operates as a specialized provider, as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than $1,000 per day for each day of such offense.

E. Waiver Request

1. In accordance with R.S. 46:1407(E), the secretary of the department, in specific instances, may waive compliance with a standard, upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children and youth are not imperiled.

2. A request for a waiver shall be submitted by a provider to DCFS Licensing Section staff. A request for a waiver shall provide the following information: the standard to be waived, an explanation of the reasons why the standard cannot be met, and why a waiver is being requested, including information demonstrating that the economic impact is sufficiently great to make compliance impractical.

3. All requests for a waiver will be responded to in writing by the DCFS Secretary. A copy of the waiver decision shall be kept on file at the child placing agency and presented to licensing staff during all licensing inspections, if requested.

4. A waiver is issued at the discretion of the Secretary and continues in effect at his/her pleasure. The waiver may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, or upon occurrence of any resolutory or suspensive condition affecting the waiver, or upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child/youth is imperiled), or upon his/her determination that continuance of the waiver is no longer in the best interest of the DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7305. Definitions—Foster Care, Adoption, Transitional Placing

Abuse—any of the following acts which seriously endangers the physical, mental, or emotional health and safety of the child.

1. The infliction, attempted infliction, or as a result of inadequate supervision, allowing the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

2. The exploitation or overwork of a child by a parent or any other person, including, but not limited to commercial sexual exploitation of the child.

3. The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any of the following:

a. any sexual act with any other person;

b. pornographic displays;

c. any sexual activity constituting a crime under the laws of this state; or

d. the coerced abortion conducted upon a child.

Adoption Disruption—the interruption of an adoption after placement of the child and before legal finalization of the adoption.

Affiliate—

1. with respect to a partnership, each partner thereof;

2. with respect to a corporation, each officer, director and stockholder thereof;

3. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners in which that person is a partner; and any corporation in which that person is an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

4. with respect to any of the above, any mandatory, agent, representative, or any other person, natural or juridical, acting at the direction of or on behalf of the licensee or applicant; or

5. administrator, executive director, or program director of any such DCFS licensed agency or facility.

Age or *Developmentally Appropriate Activities* or *Items*—activities or items that are generally accepted as suitable for children/youth of the same chronological age or level of maturity or that are developmentally appropriate, based on the cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child/youth, activities or items that are suitable for that child/youth based on developmental stages attained with respect to cognitive, emotional, physical, and behavioral capacities.

Agency—any place, program, agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church entity.

Anniversary—licensure year determined by the month in which the initial license was issued to the child placing

agency and in which the license is eligible for renewal each year.

Approved Home—physical address of a home which has been determined by the child placing agency to meet all the requirements noted herein.

Babysitting—care arranged for and paid for by foster/adoptive parents for foster/adoptive children in the absence of the foster/adoptive parents.

Birth Certificate—official document issued to record a person's birth, which includes identifying data such as name, gender, date of birth, place of birth, and parentage.

Case Plan—plan developed by DCFS child welfare to establish short and long term goals based on the strengths and needs of the family and child/youth.

Change of Location (CHOL)—change of physical address of the child placing agency.

Change of Ownership (CHOW)—transfer of ownership of a currently licensed child placing agency to someone other than the owner listed on the initial application without a break in service. Ownership of the business, not the building, determines the owner. Sale of the juridical entity or lease of the business also constitutes a change of ownership.

Chemical Restraint—medication or drug administered to control behavior or to sedate.

Child—a person who has not reached the age eighteen or otherwise been legally emancipated. The words "child" and "children" are used interchangeably throughout this chapter.

Child Placing Agency (CPA)—any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing children in foster care or with substitute parents for temporary care or for adoption or engaged in assisting or facilitating the adoption of children, or engaged in placing youth in transitional placing programs, but shall not mean a person who may occasionally refer children for temporary care.

Child Welfare (CW)—Division within the Department of Children and Family Services.

Complaint—an allegation that any person is violating any provision of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, and/or welfare of any child/youth receiving services from a child placing agency.

Contractor—any person who renders professional services, therapeutic services, enrichment services, or counseling to children/youth such as educational consulting, athletic, or artistic services within a child placing agency, whose services are not integral to either the operation of the child placing agency or to the care and supervision of children/youth. Contractors may include, but are not limited to social workers, counselors, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, art instructors, state-certified teachers employed through a local school board, and other outside contractors. A person shall not be deemed a contractor if he is a staff person of the child placing agency.

Criminal Background Check (CBC)—a review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation, the state Department of Public Safety, and/or any other repository of criminal records, involving a pending arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information, conviction record information, fingerprint cards, correctional induction and release information, identifiable descriptions and notations of convictions; provided, however, dissemination of such information is not forbidden by order of any court of competent jurisdiction or by federal law.

DAL—the Division of Administrative Law.

DCFS—the Department of Children and Family Services.

Department—the Department of Children and Family Services.

Dependent Adult—a person who is 18 years of age or older who is dependent upon foster/adoptive parents for physical and/or developmental care or support and would be in danger if care or support is withdrawn.

Dependent Child—a person who is under the age of 18 years who is dependent upon foster/adoptive parents for physical and/or developmental care or support and would be in danger if care or support is withdrawn.

Discipline—positive corrective action used to manage inappropriate behavior in children/youth.

Disqualification Period—the prescriptive period during which the department shall not process an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed agency/facility has ceased operating.

Documentation—written evidence or proof, signed and dated by parties involved (executive director, program director, foster/adoptive parent, staff, children, youth, etc.), on site and available for review.

Emergency Removal—a disruption of the current placement whereby removal of the child within 48 hours is requested.

Executive Director—the individual responsible for the management, administration, and supervision of the child placing agency.

Existing Child Placing Agency—a provider with a valid license at a particular location prior to the effective date of these standards.

Foster Care—placement of a child/youth in a foster home, a relative's home, residential home, or other living arrangement approved and supervised by the state for the provision of substitute care for a child.

Foster Home—a private home of one or more persons who provide continuous 24-hour substitute parenting for one to six children living apart from their parent(s) or guardians who are placed for foster care under the supervision of the department or a licensed child-placing agency.

Foster Parent—an individual(s) who provides foster care with the approval and under the supervision of the department or of a licensed child-placing provider.

Full-Time—employment by which a person works a minimum of 35 hours Monday through Friday each week.

Functional Literacy—the ability to read and write at the level necessary to participate effectively in society.

Human Service Field—the field of employment related to social services such as social work, psychology, sociology, special education, nursing, rehabilitation counseling, criminal justice, juvenile justice, and/or corrections.

Home Study—a comprehensive evaluation of the home environment and life of prospective foster and adoptive parents conducted in accordance with applicable requirements of the state in which the home is located to determine the suitability of the family to meet the individual needs of a child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development.

Injury of Unknown Origin—an injury where the source was not observed by any person and/or could not be explained by the child/youth and is suspicious due to the extent of the injury or its location (e.g.,an injury located in an area not generally vulnerable to trauma).

Intercountry—adoption of a child from another country.

Interstate Compact on the Placement of Children (ICPC)—procedures for ensuring the safety and stability of placements of children across state lines.

Juridical Person/Entity—a limited liability company, partnership, corporation, church, university, or governmental department/agency.

Legal Custody—the right to have physical custody of a child and to determine where and with whom the child shall reside; to exercise the rights and duty to protect, train, and discipline the child; the authority to consent to major medical, psychiatric, and surgical treatment; and to provide the child with food, shelter, education, and ordinary medical care, all subject to any residual rights possessed by the child's parents.

Legal Guardian—a person or agency with the legal authority and corresponding duty to care for the person and property of a child/youth.

Legal Guardianship—a legal relationship created between a minor and a guardian, which may be a person or institution, that gives the guardian certain rights and obligations such as the authority to make decisions regarding the life and development of the minor and the minor's general welfare until he/she reaches the age of majority.

License—a certification issued by the department to operate a child placing agency as defined in R.S. 46:1403.

Licensing deficiency review—formalized process by which a provider may challenge deficiencies cited during a licensing inspection that the provider contends are in whole or part factually inaccurate.

Lifebook—a record chronicling accomplishments, milestones, and important persons in a child's life through pictures, words, art, awards, ribbons, and memorabilia.

Living Unit—a house, mobile home, or apartment.

LSP—Louisiana State Police.

Mechanical Restraint—an approved professionally manufactured device used to modify the behavior of a child/youth by restricting his/her free movement.

Medication—drugs, topicals, or other remedies used to treat illness or injury or relieve pain whether over-the-counter or prescribed.

Medically Fragile—a child/youth with intensive care needs due to chronic and severe conditions and/or functional limitations requiring skilled care from a health care professional or specially trained family or foster family member.

Natural Person—a human being and if that person is married and not judicially separated or divorced, the spouse of that person.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired.

Owner or *Operator*—individual or juridical entity exercising direct or indirect control over a licensing entity. For licensing purposes the following are considered owners:

1. *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 agency premises when children/youth are present;

2. *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 agency premises when children/youth are present;

3. *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 agency premises when children/youth are present; or

4. *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 agency premises when children/youth are present.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of that thing may use, enjoy, and dispose of the thing within the limits and under the conditions established by law.

1. *Direct Ownership*—the owner is a natural person with sole control of the child placing agency.

2. *Indirect Ownership*—the owner is a juridical entity.

Parent—any living person who is presumed to be a parent under the Civil Code or a birth or adoptive mother or father of a child.

Physical Restraint—emergency physical intervention used to restrict movement of the arms, legs, body or head of a child/youth which includes holding a child in a manner that restricts movement.

Program Director—the individual with authority and responsibility for the on-site daily operation of the child placing agency as recorded with the licensing section.

Posted—prominently displayed in a conspicuous location in an area accessible to and regularly used by children/youth and/or staff.

Provider—child placing agency.

Public Law 115-123—Title VII Family First Prevention Services Act

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

Reasonable Suspicion—to have or acquire information containing specific and articulable facts indicating that an owner, operator, current or potential employee, or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor with a justified (valid) finding currently recorded on the state central registry.

Related or *Relative*—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Respite Care—temporary care arranged by or paid for by the child placing agency to provide relief to foster or adoptive parents.

Service Plan—a written plan of action developed by the child placing agency for each individual child that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

Shall or *Must*—mandatory.

Should—advised or may.

Staff—full or part-time paid or non-paid child placing agency personnel who perform services for the child placing agency and have direct or indirect contact with children/youth.

State Central Registry (SCR)—repository that identifies individuals with certain justified (valid) findings of abuse and/or neglect of a child or children by the Department of Children and Family Services.

Substantial Bodily Harm—a physical injury such that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar injuries that heal without professional medical attention.

Supervision—the function of observing, overseeing, and guiding a child/youth which includes awareness of and responsibility for the ongoing activity of each child/youth requiring accountability for their care, knowledge of their activities and whereabouts, and knowledge of their individual abilities and needs.

Temporary Closure—closure of more than 14 calendar days, but less than 30 calendar days.

Therapeutic Foster Care—foster care that accommodates a child or youth whose need for prolonged specialized care and supervision requires continuous professional oversight preventing placement in a standard foster home.

Transitional Placing Program—a program that places youth, at least 16 years of age and not older than 21 years of age, in an independent living situation supervised by a provider with the goal of preparing the youth for living independently without supervision.

Type IV License—license held by any publicly or privately owned child placing agency provider.

Unlicensed Operation—operation of any specialized provider at any location, without a valid, current license issued by the department.

Visitor—anyone who enters a child placing agency other than child placing agency staff, contractor, therapeutic professionals, and in the case of a church or school, pastor, principal, teacher, etc.

Volunteer—an individual who provides services for the provider and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with children.

Waiver—an exemption from compliance with a regulation granted by the secretary of the department.

Youth—a person not less than sixteen years of age nor older than twenty-one years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7307. Initial Application

A. Initial Licensing Application Process—Foster Care, Adoption, Transitional Placing

1. An initial application for licensing as a child placing agency provider shall be obtained from the department.

Department of Children and Family Services
Licensing Section
P. O. Box 260036
Baton Rouge, LA 70826
Phone: (225) 342-4350
Fax: (225) 219-4363
Web address: www.dcfs.louisiana.gov

2. A completed initial license application packet for an applicant shall be submitted to and approved by the department prior to an applicant providing child placing agency services. The completed initial licensing packet shall include:

a. completed application and non-refundable fee;

b. current Office of Fire Marshal approval for occupancy as noted in §7313.B;

c. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

d. current city fire department approval as noted in §7313.B;

e. city or parish building permit office approval for new construction or renovations;

f. local zoning approval, if applicable;

g. organizational chart or equivalent list of staff positions and supervisory chain of command;

h. verification of experience and educational requirements for the program director;

i. list of consultant/contract staff to include name, contact info, and responsibilities;

j. list of all staff (paid, non-paid, and volunteers) and their position;

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services;

l. three signed reference letters dated within 12 months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

m. copy of current general liability coverage;

n. copy of current property insurance or rental insurance for transitional placing locations;

o. copy of current insurance coverage for child placing agency and staff owned vehicles used to transport children/youth; and

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

3. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 180 calendar days to submit the additional requested information. If the department does not receive the requested information within the 180 calendar days, the application will be closed and the fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a child placing agency shall submit a new initial licensing packet and fee to begin the initial licensing process.

4. Once the department has determined the initial licensing packet is complete, DCFS will attempt to contact the applicant to schedule an initial inspection; however, it is the applicant's responsibility to coordinate the initial inspection. If an applicant fails to schedule the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed and fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a child placing agency provider shall submit a new initial licensing packet and fee to begin the initial licensing process.

5. After the completed application and non-refundable fee have been received by the Licensing Section, DCFS will notify the Office of State Fire Marshal, office of city fire department (if applicable), and Office of Public Health that an application for licensure has been submitted. However, it is the applicant's responsibility to request and obtain inspections and approvals.

6. Prior to a license being issued, documentation shall be submitted to the Licensing Section of a fingerprint based criminal record check from the Louisiana State Police for all staff including owners, operators, and contractors of the child placing agency, as required by R.S. 46:51.2 and 15:587.1. CBCs shall be dated no earlier than 45 days prior to the issue date of the initial license.

7. Prior to a license being issued, documentation shall be submitted to the Licensing Section of completed state central registry clearances noting no justified (valid) finding of abuse and/or neglect for all staff including owners, operators, and contractors and shall be dated no earlier than 45 days prior to the issue date of the initial license.

B. Initial Licensing Inspection—Foster Care, Adoption, Transitional Placing

1. Prior to the initial license being issued to a child placing agency, an initial licensing inspection shall be conducted on-site at the child placing agency office and all transitional placing locations to ensure compliance with all licensing standards. The initial licensing inspection shall be an announced inspection. No child/youth shall be provided services by the child placing agency until the initial licensing inspection has been performed, all deficiencies cleared, requested information received, and the department has issued an initial license. If the provider is in operation in violation of the law, the licensing inspection shall not be conducted. In these instances, the application shall be denied and DCFS shall pursue legal remedies.

2. Once the child placing agency is compliant with all licensing laws and standards, required statutes, ordinances, rules, regulations, and fees, the department may issue a license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is revoked or suspended. When a license is modified, a new license shall be issued. The license with the most current issue date supersedes all other licenses issued.

3. When issued, the initial child placing agency license shall specify the services for which the child placing agency is eligible to provide (foster care services, adoption services, and/or transitional placing services).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7309. Background Checks

A. Criminal Background Checks—Owners, Foster Care, Adoption, Transitional Placing

1. Owners shall have a fingerprint based criminal background check from the Louisiana State Police on file with the child placing agency in accordance with R.S. 46:51.2 and 15:587.1. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an owner obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the owner is no longer allowed on the premises until a clearance is received.

a. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to children/youth.

b. No person shall own, operate, or participate in the management or governance of a child placing agency until such person has submitted his or her fingerprints to Louisiana State Police and it has been determined that such

person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

c. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall own, operate, or participate in the management or governance of a child placing agency.

d. Any owner or operator who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of nolo contendere.

e. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

2. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance from the Louisiana State Police:

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 agency 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 agency 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 agency premises when children/youth are present; or

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 agency premises when children/youth are present.

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

4. Effective April 1, 2019, CBCs/attestation forms shall be dated no earlier than 45 days prior to the initial application being received by the Licensing Section, or the individual being present on the premises, or having access to children/youth.

B. State Central Registry—Owners, Foster Care, Adoption, Transitional Placing

1. Prior to April 1, 2019, in accordance with R.S. 46:1414.1, all owners and operators affiliated with an agency were required to have on file a state central registry clearance form from child welfare stating that the owners/operators were not listed on the state central registry. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of a child placing agency.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

2. Prior to April 1, 2019, all owners and operators affiliated with an agency were required to have on file a clearance from any other state's child abuse and neglect registry in which the owner/operator resided within the proceeding five years. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child was eligible to own, operate, or participate in the governance of the child placing agency.

3. In accordance with R.S. 46:1414.1, an inquiry of the state central registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana state central registry clearance form shall be dated no earlier than 45 days prior to the license being issued or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the license being issued or the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the child placing agency.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if

currently licensed, prior to the addition of a new board member who meets the definition of an owner. 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 of a child placing agency.

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.

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

6. A request for a state central registry clearance shall be submitted by provider for all owners/operators to child welfare every five years prior to the date noted on the state central registry clearance notification and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry.

7. If the owner/operator receives a justified (valid) finding after receiving notification from child welfare that he was not listed on the state central registry and the owner/operator advises the provider 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.

a. The owner/operator shall be directly supervised by a paid staff (employee) of the child placing agency and at any and all times when he/she is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect.

b. 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.

8. Upon notification to the provider from child welfare 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 of the child placing agency. The owner/operator may 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 child placing agency 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 position on the board or has been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit to licensing documentation verifying that the individual's name has been removed from the Secretary of State's website if the CPA is owned/operated by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

9. Any information received or knowledge acquired by a provider that a current owner is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally 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 child placing agency, 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 must 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.

10. State central registry clearances are not transferable from one owner to another.

C. Agency Location and Equipment—Foster Care, Adoption, Transitional Placing

1. The provider shall have suitable space for an office and reception area which provide comfort, safety, privacy, and convenience for children/youth and staff.

2. The provider shall have furnishings which are clean and safe.

3. The provider shall have suitable space for confidential meetings with parent(s) and children/youth and visitation between parent(s) and children/youth.

4. The provider shall have suitable storage areas for personnel and child/youth records which provide controlled access, retrieval, and confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7311. Licensing Requirements—Foster Care, Adoption, Transitional Placing

A. General Provisions

1. Any provider with a valid child placing agency license upon the effective date of these standards shall meet all of the requirements herein, unless otherwise stated.

2. Prior to beginning operation, it is mandatory to obtain a license from DCFS by meeting all requirements noted herein.

3. Licensing Section shall determine the period for which a license is valid. A license is valid for the period for which it is issued unless it is modified, revoked, or suspended.

4. A license shall be valid only for a particular owner and only for the address on the license and is not transferable to another person, juridical entity, location, or subject to sale. Any change of ownership or change of location automatically renders the license null and void. A change of ownership of the property on which the licensed child placing agency is located shall not affect the license; however, loss of the right to use the premises by the licensee (whether through eviction, termination of lease, etc.) shall void the license as provided above.

5. With the exception of a change of ownership application, an application from a new provider for the same program shall not be processed if an application or license is currently on file with the Licensing Section for the same physical address.

6. The license shall be displayed in a prominent place at the CPA. Child placing agencies operated by a church or religious organization are exempt from this requirement provided the license is available upon request.

7. DCFS representatives shall be admitted into the child placing agency office without delay and shall be given immediate access during regular business hours to all records and areas of a child placing agency office, including but not limited to its grounds. DCFS representative shall also be given immediate access to transitional placing locations and children/youth. Provider shall facilitate the coordination of visits to prospective and certified foster/adoptive parents' homes chosen by DCFS licensing staff.

8. In order to maintain a license, a CPA shall operate at least one day per week for at least four consecutive hours. This four hour timeframe shall occur Monday through Friday between the hours of 7:30 am and 5 pm.

9. If any area of a child placing agency office is set aside for private use, DCFS representatives shall be permitted to verify that no child/youth is present in that portion and that the private areas are inaccessible to children/youth.

10. DCFS staff shall be allowed to confidentially interview any staff member, child/youth, and prospective and certified foster/adoptive parents as determined necessary by DCFS.

11. All new construction or renovation to a currently licensed child placing agency requires approval from the Office of State Fire Marshal as noted in §7313.B, Office of Public Health, city fire (if applicable), and the Licensing Section prior to a child or children/youth occupying the new space.

12. The provider shall notify the Licensing Section in writing of a child placing office closure of more than 14 calendar days. Notification shall be submitted within five calendar days prior to the scheduled closure or within three calendar days of an unscheduled closure. Notification shall include child placing agency's name, license number, dates, the reason for closure, and provider signature. Closures of more than 30 calendar days render the license null and void.

13. Prior to closure, the provider shall make adequate preparation and arrangements for the care, custody, and control of any children in the care, custody, and/or control of the provider.

14. The email address provided to the Licensing Section on the licensing application is the official email address unless the provider subsequently submits written notification of a change of email address to the Licensing Section and the request is acknowledged as received by licensing staff.

15. The provider shall make any information required by the Licensing Section as outlined in the current standards and any information reasonably related to determine compliance with these standards available to the department.

16. The provider shall show proof of compliance with all relevant standards and requirements established by federal, state, local, and municipal regulatory bodies.

B. Fees and Notification of Changes—Foster Care, Adoption, Transitional Placing

1. All fees are non-refundable and shall be payable to DCFS Licensing Section by money order, certified check, or electronic payment, if available.

2. In accordance with R.S 46:1406(F), there shall be a non-refundable fee of $50 for a license or renewed license, payable to the department with the initial licensing application, CHOL application, CHOW application, and prior to the last day of the anniversary month of the license.

3. A non-refundable fee of $5 is required to issue a duplicate license with no changes.

4. A non-refundable fee of $25 is required when a change to the license is requested or noted by licensing staff.

5. The provider shall notify the Licensing Section on a DCFS change of information form prior to making changes to child placing agency operations as noted below. There is no fee charged when the request is noted on the renewal application and all required inspections and approvals are received prior to the expiration of the current license; however, the change shall not be effective until the first day of the month following the expiration of the current license.

a. Removal of a service (foster care services, adoption services, or transitional placing services) is effective upon receipt of a completed change of information form.

b. Name change is effective when the following are received by the licensing section:

i. completed change of information form; and

ii. $25 non-refundable change fee.

c. Change to add foster care services or adoption services is effective when the following are received and approved by the licensing section:

i. completed change of information form;

ii. $25 non-refundable change fee; and

iii. inspection by the Licensing Section noting compliance with regulations regarding the service which will be provided.

d. Change to add transitional placing services is effective when the following are received and approved by the licensing section:

i. completed change of information form;

ii. $25 non-refundable change fee;

iii. current approvals as noted in §7313.B;

iv. inspection of each transitional placing location by the Licensing Section noting compliance with regulations regarding the service which will be provided; and

v. copy of property insurance or rental insurance coverage for each transitional placing location;

e. Change to add an additional transitional placing location under current CPA license is effective when the following are received and approved by the licensing section:

i. completed change of information form;

ii. $25 non-refundable change fee;

iii. current approvals as noted in §7313.B;

iv. inspection of each transitional placing location by the Licensing Section noting compliance with regulations regarding the service which will be provided; and

v. copy of property insurance or rental insurance coverage for each transitional placing location;

f. Change to age range for which services are provided is effective when the following are received and approved by the licensing section:

i. completed change of information form and;

ii. $25 non-refundable change fee;

g. Change in program director is effective when the following are received and approved by the licensing section:

i. completed change of information form;

ii. documentation of program director's qualifications as noted in §7313.H.6;

iii. three signed letters of reference dated within 12 months prior to hire attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

iv. CBC clearance dated within 45 days of hire;

v. Louisiana state central registry clearance dated within 45 days of hire; and

vi. if an individual resided in a state other than Louisiana in the previous five years, state central registry clearance from those states dated within 120 days of hire.

6. If a child placing agency is found to be non-compliant with regard to a particular service offered or with a particular age group of children/youth, DCFS may require the child placing agency to cease providing the service and/or restrict the age of the children/youth for which the child placing agency is licensed to provide services.

C. Renewal of License—Foster Care, Adoption, Transitional Placing

1. The license shall be renewed on an annual basis prior to the last day of the anniversary month of the license.

2. The provider shall submit, prior to the license expiration date, a completed renewal application form and $50 non-refundable fee. The following documentation shall also be included:

a. current Office of Fire Marshal approval for occupancy as noted in §7313,B;

b. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

c. current city fire department approval as noted in §7313.B;

d. copy of current general liability coverage;

e. copy of current property insurance or rental insurance coverage for each transitional placing locations;

f. copy of current insurance coverage for child placing agency and staff vehicles used to transport children/youth;

g. copy of a criminal background clearance or current attestation forms as referenced in §7309.A for all owners and program directors as required by R.S. 46:51.2 and 15.587.1;

h. copy of state central registry clearances or current attestation forms referenced in §7309.B for all owners and program directors as required by R.S. 46:1414.1; and

i. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services.

3. Prior to renewing the child placing agency's license, an on-site inspection shall be conducted to ensure compliance with all licensing laws and standards. If the child placing agency is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, and regulations, the license shall be renewed for a 12 month period.

4. If areas of noncompliance or deficiencies are cited and have not been corrected or new deficiencies or areas of non-compliance are cited prior to the expiration of the license, the department may issue an extension of the license not to exceed 60 days.

5. When it is determined by the department that such non-compliances or deficiencies have been corrected and no new areas of noncompliance or deficiencies have been cited, a license shall be issued through the last day of the anniversary month.

6. If it is determined that all areas of noncompliance or deficiencies have not been corrected or new areas of noncompliance or deficiencies have been cited prior to the expiration date of the extension, the department may revoke the license.

D. Change of Location (CHOL)—Foster Care, Adoption, Transitional Placing

1. When a provider changes the physical location of the child placing agency office, it is considered a new operation and a new license is required prior to opening. The license at the existing location shall not transfer to the new child placing agency location.

2. After the child placing agency's new location has been determined, a complete CHOL licensing packet shall be submitted to the licensing section. A complete CHOL licensing packet shall include:

a. completed application and $50 non-refundable fee;

b. current Office of Fire Marshal approval for occupancy as noted in §7313.B;

c. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

d. current city fire department approval as noted in §7313.B;

e. city or parish building permit office approval for new construction or renovation

f. local zoning approval, if applicable;

g. organizational chart or equivalent list of staff positions and supervisory chain of command;

h. verification of experience and educational requirements for the program director if current director is replaced;

i. list of consultant/contract staff to include name, contact info, and responsibilities;

j. list of all staff (paid, non-paid, and volunteers) and their position;

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services;

l. three signed reference letters dated within 12 months prior to hire for program director if a new director is hired attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

m. copy of current general liability insurance coverage;

n. copy of current property insurance coverage or rental insurance coverage for each transitional placing location;

o. copy of current insurance coverage for child placing agency and staff vehicles used to transport children/youth;

p. list of youth currently being served in transitional placing;

q. documentation of new Louisiana State Police fingerprint based satisfactory criminal record checks for owners of the agency, as required by R.S. 46:51.2 and 15:587.1, dated no earlier than 45 days prior to the issue date of the new license as noted in §7309.A;

r. documentation of new Louisiana state central registry clearance forms for owners dated no earlier than 45 days prior to the issue date of the new license as noted in §7309.B;

s. documentation of out of state central registry clearance forms for owners dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the owner has resided out of state since receiving a clearance from that state;

t. documentation of new national criminal background checks through the Federal Bureau of Investigation (FBI) for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody, in accordance with R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89. These checks shall be dated no earlier than 45 days prior to the issue date of the new license as noted in §7315.B;

u. documentation of new state central registry clearance forms for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody. Louisiana checks shall be dated no earlier than 45 days prior to the issue date of the new license as noted in §7309.B;

v. documentation of out of state central registry clearance forms for foster/adoptive parents and household members age 18 years and older, excluding youth in DCFS custody, dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the foster/adoptive parents has resided out of state since receiving a clearance from that state;

w. documentation of new Louisiana State Police fingerprint based satisfactory criminal record checks for all staff of the agency, as required by R.S. 46:51.2 and 15:587.1. CHOLs occurring April 1, 2019 or after, CBCs shall be dated no earlier than 45 days prior to the issue date of the new license;

x. documentation of new Louisiana state central registry clearance forms for all staff (paid, non-paid, and volunteers) and contractors dated no earlier than 45 days prior to the issue date of the new license;

y. documentation of out of state central registry clearance forms for staff (paid, non-paid, and volunteers) and contractors dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the staff or contractor has resided out of state since receiving a clearance from that state; and

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

3. Services shall not be provided at the new location until a license is issued for that location.

4. The license for the new location may be effective upon receipt of all items listed in §7311.D.2 with the approval of DCFS, however; it shall not be effective prior to the first day operations begin at the new location.

5. The license for the old location shall be null and void on the last day services were provided at that location, but no later than the effective date of the new location's license. The child placing agency shall submit documentation noting the last day services will be provided at the old location.

E. Change of Ownership (CHOW)—Foster Care, Adoption, Transitional Placing

1. Any of the following constitutes a change of ownership for licensing purposes:

a. change in the federal tax id number;

b. change in the state tax id number;

c. change in profit status;

d. any transfer of the business from an individual or juridical entity to any other individual or juridical entity;

e. termination of services by one owner and beginning of services by a different owner without a break in services to the children/youth; and/or

f. addition of an individual, with the exception of a board member, to the existing ownership on file with the licensing section.

2. When a child placing agency changes ownership, the current license is not transferable. Prior to the ownership change and in order for a new license to be issued, the new owner shall submit a CHOW application packet containing the following:

a. completed application and $50 non-refundable fee;

b. current Office of Fire Marshal approval for occupancy from current owner as noted in §7313.B;

c. current Office of Public Health, Sanitarian Services approval from current owner as noted in §7313.B;

d. current city fire department approval, if applicable; as noted in §7313.B;

e. city or parish building permit office approval for renovations or new construction;

f. local zoning approval, if applicable;

g. organizational chart or equivalent list of staff titles and supervisory chain of command;

h. verification of experience and educational requirements for the program director if new owner replaces current director;

i. list of consultant/contract staff to include name, contact info, and responsibilities;

j. list of all staff (paid, non-paid, and volunteers) and their position;

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services;

l. three signed reference letters dated within three months prior to hire for program director if new owner replaces current director attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

m. copy of current general liability coverage;

n. copy of current property insurance or rental insurance coverage for each transitional placing locations;

o. copy of current insurance for child placing agency and staff owned vehicles used to transport children/youth;

p. documentation of new Louisiana State Police fingerprint based satisfactory criminal record checks for owners or current attestation forms as referenced in §7309.A, as required by R.S. 46:51.2 and 15:587.1. These checks shall be dated no earlier than 45 days prior to the issue date of the new license;

q. documentation of new Louisiana state central registry clearance forms for owners or attestation forms dated no earlier than 45 days prior to the issue date of the new license as noted in §7309.B;

r. documentation of out of state central registry clearance forms for owners dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the owner has resided out of state since receiving a clearance from that state;

s. documentation of new Louisiana State Police fingerprint based satisfactory criminal record checks for all staff of the agency, as required by R.S. 46:51.2 and 15:587.1, dated no earlier than 45 days prior to the issue date of the new license;

t. documentation of new Louisiana state central registry clearance forms for all staff (paid, non-paid, and volunteers) and contractors dated no earlier than 45 days prior to the issue date of the new license;

u. documentation of out of state central registry clearance forms for staff (paid, non-paid, and volunteers) and contractors dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the staff or contractor has resided out of state since receiving a clearance from that state;

v. documentation of new national criminal background checks through the Federal Bureau of Investigation (FBI) for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody, in accordance with R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89. These checks shall be dated no earlier than 45 days prior to the issue date of the new license;

w. documentation of new Louisiana state central registry clearance forms for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody. These checks shall be dated no earlier than 45 days prior to the issue date of the new license;

x. documentation of out of state central registry clearance forms for foster/adoptive parents and household members age 18 years and older, excluding youth in DCFS custody, dated no earlier than 120 days prior to the issue date of the new license as noted in §7309.B if the foster/adoptive parents have resided out of state since receiving a clearance from that state;

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

3. The prior owner's current Office of State Fire Marshal and Office of Public Health approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from the Office of the State Fire Marshal and the Office of Public Health as noted in §7313.B to the Licensing Section on or prior to the sixtieth day in order for their license to be extended.

4. A licensing inspection shall be conducted within 60 calendar days of the license being issued to verify compliance with the licensing standards.

5. All staff/children/youth information shall be updated under the new ownership prior to or on the last day services are provided by the existing owner.

6. If all information in §7311.E.2 of this section is not received prior to or on the last day services are provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with §7311.E.2.

7. In the event of a change of ownership, the children/youth records shall remain with the new child placing agency.

8. A child placing agency facing adverse action shall not be eligible for a CHOW. An application involving a child placing agency facing adverse action shall be treated as an initial application rather than a change of ownership application.

F. Change in Ownership Structure—Foster Care, Adoption, Transitional Placing

1. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change:

a. if individual ownership, upon death of the spouse; or

b. if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner.

2. The change of information form shall be submitted to the Licensing Section within seven calendar days of the change:

a. if individual ownership, undergoing a separation or divorce, until the judicial termination of the community aquets and gains is signed by both parties;

b. change in board members for churches, corporations, limited liability companies, universities, or governmental entities; or

c. removal of any person from the existing ownership structure under which the child placing agency is currently licensed.

G. Denial, Revocation, or Non-Renewal of License—Foster Care, Adoption, Transitional Placing

1. Even if a child placing agency is otherwise in compliance with these standards, an application for a license may be denied, or a license revoked or not renewed for any of the following reasons:

a. cruelty or indifference to the welfare of the children/youth in care;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any agency whose approval is required for licensing;

d. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment as noted on the state central registry, if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

e. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment as noted on the state central registry, in a foster/adoptive home if the home remains certified;

f. closing with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

g. any act of fraud such as falsifying or altering documents required for licensure;

h. refusing to allow the Licensing Section staff to perform mandated duties, i.e., denying entrance to the agency, not cooperating with licensing mandates, intimidation or threats to DCFS staff, etc.;

i. the owner, director, officer, board member, or any person designated to manage or supervise the provider or any staff providing care, supervision, or treatment to a child/youth has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1 or to any offense involving a juvenile victim. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttal presumption that such a conviction or plea exists;

j. the provider, after being notified that an officer, director, board member, manager, supervisor, or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttal presumption that such a conviction or plea exists;

k. failure of the owner, director, or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

l. revocation or non-renewal of a previous license issued by a state or federal provider;

m. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, closure to avoid revocation, or revocation or denial of any previous license issued by the department;

n. failure to submit an application for renewal or required documentation or to pay required fees prior to the last day of the anniversary month;

o. operating any unlicensed agency, program, or facility;

p. permitting an individual to be on the premises or to have access to children/youth when listed on the state central registry;

q. own a child placing agency and have been convicted of or have pled guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense; or

r. failure of the child placing agency to decertify a foster/adoptive home after licensing violations are noted and not timely corrected which pose an imminent risk to the health and/or safety of children/youth placed in the home.

H. Posting of Notices of Revocation—Foster Care, Adoption, Transitional Placing

1. The DCFS shall prominently post a notice of revocation action at each public entrance of the child placing agency within one business day of such action. This notice shall remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of individuals that receive services from the provider.

2. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeal of the revocation.

3. The provider shall notify the department's licensing management staff verbally and in writing immediately if the notice is removed or obliterated.

4. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation, or non-renewal of any future application or license.

I. Appeal Process for Denial, Non-Renewal, or Revocation—Foster Care, Adoption, Transitional Placing

1. The DCFS Licensing Section, shall advise the applicant, program director or owner by letter of the reasons for revocation of the license, or denial of an application, and the right of appeal. If the director or owner is not present at the agency, delivery of the written reasons for such action may be made to any staff of the agency. Notice to a staff person shall constitute notice to the child placing agency of such action and the reasons thereof. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider shall have 15 calendar days from receipt of the letter notifying of the revocation to request an appeal in accordance with R.S. 46:1420. Provider may continue to operate during the appeal process as provided in the Administrative Procedure Act.

3. If the provider's license will expire during the appeal process, the provider shall submit prior to its license expiration date, a complete renewal packet as noted in §7311.C. Each provider is solely responsible for obtaining the application form. All information shall be received on or postmarked by the last day of the month in which the license expires or the provider shall cease operation by the close of business on the expiration date noted on the license. A complete renewal packet includes:

a. completed application form;

b. non-refundable $50 fee;

c. current Office of State Fire Marshal approval for occupancy as noted in §7313.B;

d. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

e. current city fire department approval, if applicable; as noted in §7313.B;

f. copy of current general liability coverage;

g. copy of current property insurance or rental insurance coverage for each transitional placing locations;

h. copy of current insurance coverage for child placing agency and staff owned vehicles used to transport children/youth;

i. copy of a criminal background clearance or current attestation forms as referenced in §7309.A for all owners and program directors as required by R.S. 46:51.2 and 15.587.1;

j. copy of state central registry clearance forms as referenced in §7309.B and §7313.I.10 for all owners and program directors as required by R.S. 46:1414.1; and

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services.

4. A provider shall have 30 calendar days from receipt of the letter notifying of the denial of an application for a license to request an appeal.

5. The appeals section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by DAL of the decision, either affirming or reversing the original decision of DCFS.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the child placing agency immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the child placing agency is located for injunctive relief.

7. If the revocation or non-renewal decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate. If the denial of application decision is reversed, DCFS will begin processing the application for licensure.

J. Disqualification of Agency and Provider—Foster Care, Adoption, Transitional Placing

1. If a child placing agency's application is denied, license revoked or not renewed due to failure to comply with state statutes and/or licensing rules, the department shall not process a subsequent application from the provider for that child placing agency or any other license issued by DCFS for a minimum period of 24 months after the effective date of denial or revocation or non-renewal or a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new agency for purposes of this section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the Secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a child placing agency facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule and shall trigger the same disqualification period as if the license had actually been revoked

3. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, program director, or executive director of such licensee shall be prohibited from owning, managing, directing, or operating another licensed agency for a period of not less than two years from the date of the final disposition of the revocation or denial action. If the action was not appealed, the effective date is the last day for which an appeal could have been requested. The lapse of two years shall not automatically restore a person disqualified under this provision. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

4. If a license is revoked or not renewed or application denied or refused, an application or license shall also be denied or refused to any affiliate of the licensee or applicant. The disqualification period provided in this section shall include any affiliate of the provider.

K. Complaint Process—Foster Care, Adoption, Transitional Placing

1. In accordance with R.S. 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect. All licensing complaint investigations shall be initiated within 30 days.

2. All licensing complaint investigations shall be unannounced.

3. Providers shall advise staff, foster/adoptive parents, and youth in the transitional placing program of the licensing authority of DCFS and that they may contact the Licensing Section with any unresolved complaints. Providers shall post the current telephone number, email address, and mailing address of the Licensing Section in the child placing agency office in an area regularly utilized by staff. Documentation of notification of the licensing authority of DCFS to foster/adoptive parents and youth in the transitional placing program shall consist of a signed and dated statement by the foster/adoptive parents and the youth.

L. Corrective Action Plans—Foster Care, Adoption, Transitional Placing

1. A corrective action plan (CAP) shall be submitted for all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from receipt of the deficiencies. Receipt of the deficiencies by any staff person constitutes notice to the child placing agency. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) will be completed, and outline the steps the child placing agency plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the

licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within five calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

2. Provider may challenge a specific deficiency or any information within a cited deficiency which the provider contends is factually inaccurate. The provider shall have one opportunity to request a review of a licensing deficiency within the timeframe specified for the submission of the CAP. A statement of why the deficiency is being disputed and supporting documents (if applicable) shall be submitted with the corrective action plan within the timeframe specified for the submission of the CAP.

3. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If information within the deficiency was cited in error or the cited deficiency is revised by the DCFS Licensing Section staff, provider will receive a revised "statement of deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

M. Critical Violations/Fines—Foster Care, Adoption, Transitional Placing

1. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the department may at its' discretion elect to impose sanctions, revoke a license, or both:

a. §7309.A, §7313.I.9, §7313.L.5, and/or §7313.M.1—criminal background check;

b. §7313.N.2, N.6, and/or N.7—critical incidents; and/or

c. §7319.D, §7321.H, and/or §7323.F.2-5—supervision.

2. The option of imposing other sanctions shall not limit the right of DCFS to revoke and/or not renew a provider's license to operate if it determines that the violation poses an imminent threat to the health, safety, rights, or welfare of a child/youth. Only when the department finds that the violation does not pose an imminent threat to the health, safety, rights, or welfare of a child/youth will the department consider sanctions in lieu of revocation or non-renewal; however, the absence of such an imminent threat does not preclude the possibility of revocation or non-renewal in addition to sanctions, including fines.

3. In determining whether multiple violations of one of the above categories have occurred, both for purposes of this section and for purposes of establishing a history of non-compliance, all such violations cited during any 24-month period shall be counted.

4. For the first violation of one of the aforementioned categories, if the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur.

5. The warning letter shall include a directed corrective action plan (CAP) which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in either the assessment of a civil fine, revocation/non-renewal of license, or both.

6. For the second violation of one of the same aforementioned categories within a 24-month period, provider may be assessed a civil fine of up to $250 per day for a violation in each of the aforementioned categories (if same category cited twice) and fined for each day the provider was determined to be out of compliance with one of the aforementioned categories according to the schedule of fines noted in §7311.M.7-9.

7. The base fine level for all violations shall be $200 per day. From the base fine level, factor in any applicable upward or downward adjustments, even if the adjustment causes the total to exceed $250. If the total fine after all adjustments exceeds $250, reduce the fine for the violation to $250 as prescribed by law.

a. When the violation resulted in death or serious physical or emotional harm to a child/youth or placed a child/youth at risk of death or serious physical or emotional harm, the fine shall be increased by $50.

b. When the provider had a previous license revoked for the same critical violation cited, the fine shall be increased by $25.

c. When the critical violation was cited and occurred despite the objective good faith best efforts of licensee to comply, the fine shall be decreased by $25.

d. When the cited critical violation was for a certified criminal background check not being renewed upon expiration as required, the fine shall be decreased by $25.

e. When the cited critical violation was for criminal background check not being completed prior to hire, the fine shall be increased by $25.

f. When the provider self reports the critical incident which resulted in the death or serious physical or emotional harm to the child/youth; however it is reported outside of the timeframe as specified by licensing regulations, the fine shall be decreased by $25.

g. When the provider fails to report the critical incident which resulted in the death or serious physical or emotional harm to the child/youth, the fine shall be increased by $25.

h. When a critical violation for supervision was cited due to staff not providing supervision as required to youth in transitional placing program, the fine shall be increased by $25.

i. When a critical violation for supervision was cited due to staff not conducting required visits to the foster/adoptive parent or child, the fine shall be increased by $25.

8. For the third violation of one of the same aforementioned categories within a 24 month period, the provider's license may be revoked.

9. The aggregate fines assessed for violations determined in any consecutive 12 month period shall not exceed $2,000 as prescribed by law. If a critical violation in a different category is cited by DCFS that warrants a fine and the provider has already reached the maximum allowable fine amount that could be assessed by the department in any consecutive 12 month period and the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category re-occur. The warning letter shall include a directed CAP which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The Provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in revocation/non-renewal of license.

N. Departmental Reconsideration and Appeal Procedure for Fines—Foster Care, Adoption, Transitional Placing

1. When a fine is imposed under these standards, the department shall notify the program director or owner by letter that a fine has been assessed due to deficiencies cited at the child placing agency and the right of departmental reconsideration. The notification may be sent by certified mail or hand delivered to the child placing agency. If the program director or owner is not present at the child placing agency, delivery of the written reason(s) for such action may be made to any staff of the child placing agency. Notice to a staff person shall constitute notice to the child placing agency of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the provider request a reconsideration of the fine assessment. The provider may request reconsideration of the assessment by asking DCFS for such reconsideration in writing within 10 calendar days from the date of receipt of the letter. A request for reconsideration shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine together with the specific reasons the provider believes assessment of the fine to be unwarranted and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036, Baton Rouge, LA 70826. If the provider withdraws the request for reconsideration, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

2. The department shall advise the program director or owner by letter of the decision of DCFS after reconsideration and the right to appeal. The notification may be sent by certified mail or hand delivered to the child placing agency. If the program director or owner is not present at the child placing agency, delivery of the written decision may be made to any staff of the child placing agency. Notice to a staff person shall constitute notice to the child placing agency of such action.

a. If DCFS finds that the licensing section's assessment of the fine is justified, the provider shall have 15 calendar days from the receipt of the reconsideration letter to appeal the decision to the Division of Administrative Law (DAL). A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine and a copy of the reconsideration decision letter together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS appeals section shall notify the DAL of receipt of an appeal request. DAL shall conduct a hearing in accordance with the Administrative Procedure Act and shall render a decision. The appellant will be notified by DAL of the decision, either affirming or reversing the DCFS's decision.

c. If the provider has filed a timely appeal and the DCFS's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling from DAL or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The provider shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within seven calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within seven calendar days after the provider's suspensive appeal rights have been exhausted.

3. If the provider does not appeal within 15 calendar days of receipt of the DCFS's reconsideration decision, the fine is due within 30 calendar days of receipt of the DCFS's reconsideration decision and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036, Baton Rouge, LA 70826. If the provider files a timely appeal, the fines shall be due and payable on the date set forth in §7311.N.2.c. If the provider withdraws the appeal, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. If the provider does not pay the fine within the specified timeframe, the license shall be immediately revoked and the DCFS shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7313. Administration and Operation

A. Department Access—Foster Care, Adoption, Transitional Placing

1. Once a child placing agency provider has been issued a license, the department shall conduct licensing and other inspections at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other required statutes, laws, ordinances, rules, regulations, and fees. These inspections shall be unannounced.

2. The department shall remove any child/youth or all children/youth from any provider or certified home when it is determined that one or more deficiencies exist that place the health and well-being of children/youth in imminent danger. The children/youth shall not be returned to the provider until such time as it is determined by the department that the imminent danger has been removed.

B. Other Jurisdictional Approvals—Foster Care, Adoption, Transitional Placing

1. The provider shall comply and show proof of compliance with all relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including initial and annual approval by the following:

a. Office of Public Health, Sanitarian Services:

i. all child placing agency offices shall have documentation of approval;

ii. each transitional placing location shall have documentation of approval;

b. Office of State Fire Marshal:

i. all child placing agency offices shall have documentation of approval;

ii. each transitional placing location housing four or more youth shall have documentation of approval;

c. city fire department; if applicable:

i. each transitional placing location housing four or more youth in a one or two family dwelling shall have documentation of approval;

d. local governing authority or zoning approval (if applicable); and

e. city or parish building permit office approval for new construction or renovations; and

f. Department of Education, if educational services are provided onsite.

C. Policies and Procedures—Foster Care, Adoption, Transitional Placing

1. The provider shall have a written statement of its philosophy, purpose, and program.

2. Child placing agency policies shall include the provider's scope of services and limitations.

3. Child placing agency policies shall include the geographical area to be served.

4. Child placing agency policies shall include the ages of children and types of behaviors accepted for placement.

5. The provider shall have a clearly defined intake policy in keeping with its stated purpose and it shall be clear from the practices of the provider that it is carrying out these purposes.

6. Provider intake policy shall prohibit discrimination on the basis of race, color, creed, sex, national origin, disability, or ancestry. This shall not be construed to restrict the hiring or admission policies of a church or religious organization, which may give preference in hiring or admission to members of the church or denomination relating to foster care or adoption. DCFS may not limit or otherwise restrict the rights of religious sectarian child placing agencies to consider creed in any decision or action relating to foster care or adoption.

7. A provider shall have a written description of admission policies and criteria which expresses the needs, problems, situations, and patterns best addressed by its' program. These policies shall be available to the legal guardian for any child/youth referred for placement.

8. The provider policies and procedures shall include, but are not limited to the following areas:

a. personnel;

b. admission and discharge criteria;

c. services provided to children/youth placed with provider;

d. services offered to birth parent pre and post placement, if applying or licensed to provide adoption services;

e. services offered to foster parent pre and post-placement, if applying to or licensed to provide foster care services;

f. services offered to adoptive parent pre and post-placement if applying to or licensed to provide adoption services;

g. fees and cost charged for services paid by foster parents if applying to or licensed to provide foster care services;

h. fees and cost charged for services paid by adoptive parents if applying to or licensed to provide adoption services;

i. types of medical services offered to children/youth;

j. supervisory contact and visitation requirements;

k. behavior management techniques;

l. confidentiality;

m. records;

n. complaints;

o. grievances; and

p. fees and cost for services for transitional placing youth if applying to or licensed to provide transitional placing services.

9. The provider shall have written policies and procedures regarding staff persons who serve as foster parents, adoptive parents, or respite care providers.

10. Staff shall not serve as foster parents, adoptive parents, or respite care providers prior to completing the certification requirements.

11. The provider shall have written policies and procedures for board members, staff, and contract staff that address the prevention or appearance of a conflict of interest or misuse of influence.

12. The provider shall not conduct or approve the home study for any of its staff, board members, relatives, volunteers, or others with a direct affiliation with the agency. For all home studies certified on April 1, 2019 or after, arrangements shall be made with another licensed child placing agency or a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed

psychiatrist, or licensed marriage and family therapist to conduct and approve the home study, approve placements, and provide post placement supervision for its staff, board members, relatives, volunteers, or anyone with a direct affiliation with the agency.

13. In accordance with R.S. 46:1428, DCFS will provide information regarding influenza to providers prior to November 1 each year. The child placing agency shall provide to all foster/adoptive parents, child's legal guardian with the exception of DCFS, and to all youth aged eighteen or above information relative to the risks associated with influenza and the availability, effectiveness, known contraindications, and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information, and where a child/youth may be immunized against influenza.

14. As required by chapter 55 of Title 46 of R.S. 46:2701-2711, the child placing agency shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General in the child placing agency's office. The child placing agency shall provide a copy of the safety box newsletter to all foster parents, adoptive parents, and youth in transitional placing programs. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the home/premises. Provider shall document in the foster/adoptive parent record and transitional placing youth's record receipt of the newsletter and confirmation with the foster/adoptive parent and transitional placing youth that the home and environment were checked and the recalled products were removed.

D. Requirements for Respite Services for Foster and Adoptive Parents

1. The provider shall develop written policies and procedures to address the respite care needs of a child/youth or a foster/adoptive parent.

2. Respite care shall not be used as a substitute for placement of a child/youth.

3. Respite care shall be provided by a certified foster/adoptive parent in a child placing agency approved home.

4. Prior to providing respite, respite provider shall receive from the CPA or foster/adoptive parent pertinent information regarding the child/youth's history, current behavior, and information regarding the service plan of the child.

E. Records—Foster Care, Adoption, Transitional Placing

1. The administrative record shall contain a written plan describing the services and programs offered by the provider.

2. The administrative record shall contain an organizational chart.

3. The administrative record shall contain all leases, contracts, and purchase-of-service agreements to which the provider is a party.

4. The provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

5. All records shall be maintained in an accessible, standardized order and format.

6. Provider shall maintain a list of all certified foster and adoptive parents, approved homes, and transitional placing locations.

7. The child placing agency shall provide a certificate to foster/adoptive parents which note names of foster/adoptive parents, approved home address, and date of expiration of certification. Certification shall expire one year from the date of original certification and shall be renewed annually thereafter.

F. Confidentiality of Records—Foster Care, Adoption, Transitional Placing

1. Records shall be the property of the provider and shall be secured against loss, tampering, and unauthorized use or access.

2. The provider shall maintain the confidentiality of all children's records including, but not limited to all court related documents, educational and medical records. Staff shall not disclose or knowingly permit the disclosure of any information concerning the child/youth or his/her family, directly or indirectly, to other children/youth or other unauthorized person.

3. When a youth has reached the age of majority and is not interdicted, a provider shall obtain the youth's written, informed consent prior to releasing any information in which the youth or his/her family may be identified. Consent is not needed for authorized state and federal agencies.

4. When the child/youth is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the child/youth or his family may be identified. Consent is not needed for authorized state and federal agencies.

5. Upon request, the provider shall make available information in the record with written authorization from the legal guardian. If, in the professional judgment of the provider, it is believed that information contained in the record would be injurious to the health or welfare of the child/youth, the provider may deny access to the information in the record. In any such case, the provider shall document written reasons for denial in the child/youth's file.

6. The provider may use information from the child/youth's record for teaching and research purposes, development of the governing body's understanding, and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information redacted or concealed, and written authorization to include signature and date is obtained from the child/youth's legal guardian(s). If 18 years or older, written authorization to include signature and date shall be obtained from the youth.

7. All records shall be retained and disposed of in accordance with state and federal laws. In accordance with CHC 1186, any person who violates the requirement of confidentiality shall be fined not more than five hundred dollars or imprisoned for not more than ninety days or both.

G. Retention of Records—Foster Care, Adoption, Transitional Placing

1. For licensing purposes, documentation of the child placing agency's previous 12-months' activity shall be available for review during all licensing inspections. Records shall be accessible during the provider's office hours.

2. For licensing purposes, children/youth's information shall be kept on file and available for review during all licensing inspections and for a minimum of one year from date of discharge from the program.

3. For licensing purposes, records of owner, operator, staff, volunteers, and contractors shall be kept on file and available for review during all licensing inspections and for a minimum of one year from termination/resignation/providing services for the agency.

4. All records shall be retained and disposed of in accordance with state and federal laws.

5. Adoption case records shall be maintained indefinitely following final placement of a child.

6. If the provider closes, the provider shall submit adoption case records to DCFS in an electronic format with encryption details or provide the department a notarized statement within 30 calendar days of closure, indicating that the records are retained and by whom. Records may be retained by another licensed child placing agency or with a secure storage vendor.

H. Personnel Requirements and Qualifications—Foster Care, Adoption, Transitional Placing

1. The provider shall ensure that all staff members are properly certified or licensed as required by law and appropriately qualified in accordance with child placing agency regulations

2. Staff may work in more than one capacity provided they meet the qualifications and training requirements for each position and are able to fulfill the job duties for each position.

3. Each child placing agency shall have a qualified full-time Program Director who shall supervise child placement activities and casework services performed by the agency. In addition to ensuring that licensing requirements are met, the program director is responsible for planning, managing, and controlling the agency's daily activities, as well as responding to staff, foster/adoptive parents, and children/youth concerns.

4. The program director or person authorized to act on behalf of the program director shall be accessible to staff, certified foster/adoptive parents, and representatives of the department at all times (24 hours per day, 7 days per week).

5. In the short term absence of the program director, which shall not exceed 120 calendar days in a calendar year, an individual who may or may not qualify for the position shall be delegated the same authority and responsibility of the program director.

6. The program director shall possess at least one of the following qualifications if hired on or after April 1, 2019:

a. a doctorate degree in a human services field or in administration or business;

b. a master's degree in a human services field or in administration or business and one year of work experience in a human services agency;

c. a bachelor's degree in a human services field or in administration or business and at least two years of work experience in a human services agency.; or

d. six years of work experience in a human services field or a combination of college credits and work experience for a total of six years. Applicants may receive credit for college coursework in business, management, or a human service field with 15 credit hours substituting for 6 months of work experience not to exceed 60 credit hours.

7. Effective April 1, 2019, staff conducting supervisory visits with foster/adoptive parents and/or children shall possess, at a minimum, a bachelor's degree in social work or a human service related bachelor's degree.

I. Staff Records—Foster Care, Adoption, Transitional Placing

1. The provider shall have a record for each staff person.

2. Staff record shall contain an application for employment denoting education, training, and experience of staff person.

3. Staff record shall contain documentation of applicable professional or paraprofessional credentials/certifications according to state law.

4. Staff record shall contain a written job description signed and dated by staff person.

5. Staff record shall contain three signed and dated reference checks or documentation of telephone reference checks dated within 12 months prior to hire attesting affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the staff person.

6. Staff record shall contain staff's hire and termination/resignation dates.

7. Staff record shall contain a copy of the current driver's license for staff who transport children/youth.

8. Staff record shall contain reports, corrective action, and disciplinary action relating to the staff's employment with the provider.

9. Prior to employment, staff record shall contain satisfactory fingerprint based Louisiana State Police check.

a. Staff shall have a criminal background check on file with the child placing agency in accordance with R.S.15:587.1(C) and R.S 46:51.2. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. This certified copy of the criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the staff is no longer allowed on the premises until a clearance is received.

b. This check shall be obtained prior to the individual being hired, present on the premises, or having access to children/youth.

c. No person shall be hired or present on the premises of the child placing agency until such person has submitted his or her fingerprints to the Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

d. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall be hired by, continue employment, or be

present in any capacity on the premises of the child placing agency.

e. Any employee who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction, guilty plea, or plea of nolo contendere.

f. For staff hired effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the individual being hired, being present on the premises, or having access to children/youth.

g. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

10. Prior to employment, staff record shall contain a state central registry clearance form indicating that the staff person is not listed on the state central registry with a justified finding of child abuse and/or neglect.

a. Prior to April 1, 2019, all staff were required to have on file a state central registry clearance form from child welfare noting that the staff person is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child placing agency.

b. Prior to April 1, 2019, all staff were required to have on file a clearance from any other state's child abuse and neglect registry in which the staff person resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child placing agency.

c. In accordance with R.S. 46:1414.1, an inquiry of the state central registry for all staff(paid, non-paid and volunteer staff) shall be conducted prior to employment being offered to a potential hire. Staff persons who have resided in another state within the proceeding five years, provider shall request a check and obtain state central registry clearance from that state's child abuse and neglect registry. Louisiana state central registry clearance forms shall be dated no earlier than 45 days prior to the staff being present on the premises or having access to children/youth. Other states state central registry clearance forms shall be dated no earlier than 120 days prior to the staff being present on the premises or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child placing agency.

i. 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.

d. Upon notification from child welfare that the staff is not listed on the state central registry, the provider shall maintain on file the state central registry clearance form noting that the staff's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. A request shall be submitted to child welfare every five years for staff prior to 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.

e. If after the initial 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 (issued after the provider was licensed) and advises the provider of the new information prior to their 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 valid (justified) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the child placing agency, 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 suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff 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.

f. Upon notification to the provider from child welfare that the staff is listed on the state central registry, the staff shall no longer be eligible for employment with the child placing agency. The provider shall submit a signed, dated statement to licensing within 24 hours, but no later than the next business day indicating that the staff with the valid (justified) finding of abuse and/or neglect has been terminated. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

g. Any information received or knowledge acquired by the provider that a current staff (paid, non-paid and volunteer) is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally 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 child placing agency, 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 must not be suspected to be a 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.

h. State central registry clearances are not transferable from one owner to another.

J. Staff Orientation—Foster Care, Adoption, Transitional Placing

1. All staff hired effective April 1, 2019 or after, shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within the individual's first five working days

from the date of hire and prior to exercising job duties. Documentation of training shall be the certificate obtained upon completion of the training.

2. Staff shall complete orientation training within the first 15 working days from date of hire. Provider's orientation program shall include the following:

a. child placing agency philosophy and goals;

b. staff job duties and responsibilities;

c. organizational policies;

d. children/youth's rights;

e. detecting and reporting suspected abuse and neglect;

f. confidentiality of information and records;

g. reporting and documenting incidents;

h. children/youth grievance procedure;

i. behavior management;

j. LGBTQ awareness;

k. recognizing mental health concerns;

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

m. safe self-administration and handling of medications;

n. administrative procedures;

o. prohibited practices for foster/adoptive parents;

p. cultural sensitivity;

q. transportation of children/youth;

r. foster/adoptive parent grievance procedure;

s. child placing agency rules for transitional placing programs if licensed to provide transitional placing services;

t. prohibited practices for transitional placing programs if licensed to provide transitional placing services; and

u. emergency and safety procedures for transitional placing programs if licensed to provide transitional placing services.

3. Documentation of the orientation training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director or designee, attesting to having received the applicable orientation training and the dates of the orientation training.

4. Staff shall not exercise job duties until orientation is completed.

5. The provider shall maintain orientation training materials which shall be available for review.

6. All staff hired effective April 1, 2019 or after working with foster/adoptive parents shall complete the Reducing the Risk of SIDS in Early Education and Child Care training available at www.pedialink.org within the individual's first 15 working days after hire. Documentation of training shall be the certificate obtained upon completion of the training.

7. All new direct care staff hired effective April 1, 2019 or after working in the transitional placing program shall receive certification in adult cardiopulmonary resuscitation (CPR) and first aid within 60 days of employment. No staff person shall be left unsupervised with youth until he/she has completed all required training.

K. Staff Annual Training—Foster Care, Adoption, Transitional Placing

1. All staff having direct contact with children/youth shall receive annual training on the following:

a. philosophy and goals;

b. job duties and responsibilities;

c. organizational policies;

d. children/youth's rights;

e. detecting and reporting suspected abuse and/or neglect;

f. confidentiality of information and records;

g. reporting and documenting incidents;

h. children/youth grievance procedure;

i. behavior management;

j. LGBTQ awareness;

k. recognizing mental health concerns;

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

m. safe self-administration and handling of medications;

n. administrative procedures;

o. cultural sensitivity;

p. transportation of children/youth;

q. prohibited practices for foster/adoptive parents if licensed to provide foster/adoptive services;

r. foster/adoptive parent grievance procedure if licensed to provide foster/adoptive services;

s. prohibited practices for transitional placing programs if licensed to provide transitional placing services; and

t. emergency and safety procedures for transitional placing programs if licensed to provide transitional placing services.

2. Documentation of the annual training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director or designee, attesting to having received the applicable annual training and the dates of the annual training.

3. The provider shall maintain training materials which shall be available for review.

4. Effective April 1, 2019, all staff that have direct contact with children shall complete the DCFS mandated reporter training available at dcfs.la.gov within 45 days and updated annually. Documentation of training shall be the certificate obtained upon completion of the training.

5. Effective April 1, 2019 all staff that have direct contact with children shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org within 45 days and updated annually. Documentation of training shall be the certificate obtained upon completion of the training.

6. Effective April 1, 2019, direct care staff working in the transitional placing program shall receive certification in adult cardiopulmonary resuscitation (CPR) and first aid within 60 days. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization.

L. Volunteers—Foster Care, Adoption, Transitional Placing

1. Providers shall be responsible for the actions of volunteers.

2. Volunteers shall complete orientation training as outlined in §7313.J.2. Documentation of the training shall consist of a statement/checklist in the record signed and dated by the volunteer and program director or designee,

attesting to having received the applicable orientation training and the dates of the orientation training.

3. Volunteer record shall contain three documented reference checks dated within 12 months prior to beginning volunteer services. The three signed and dated reference checks or telephone notes shall attest affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the volunteer.

4. Volunteer record shall contain documentation of duties and responsibilities signed and dated by the program director or designee and volunteer.

5. Prior to providing volunteer services, volunteer record shall contain a satisfactory fingerprint based Louisiana state police check as noted in §7313.I.9.

6. Prior to providing volunteer services, volunteer record shall contain a state central registry clearance form as noted in §7313.I.10.

M. Contractors—Foster Care, Adoption, Transitional Placing

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file a satisfactory fingerprint based check from the Louisiana State Police. This check shall be obtained prior to providing services unaccompanied by a paid staff or having access to children/youth unaccompanied by a paid staff.

a. No contractor shall provide services until such person has submitted his or her fingerprints to the Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

b. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall provide services, continue to provide services, or be present in any capacity on the premises of the child placing agency.

c. Any contractor who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue to provide services after such conviction, guilty plea, or plea of nolo contendere.

d. Effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the individual providing services, being present on the premises, or having access to children/youth.

e. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

2. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file at the agency a state central registry clearance form which indicates that the contractor is not listed on any State Central registry with a valid finding of child abuse and/or neglect.

a. Prior to April 1, 2019, all contractors providing services to the child placing agency were required to have on file a state central registry clearance form from child welfare that the contractor is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed child placing agency.

b. Prior to April 1, 2019 , all contractors providing services to the child placing agency were required to have on file a clearance from any other state's child abuse and neglect registry in which the contractor resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed child placing agency.

c. For individuals who have resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to providing services or having access to children/youth.

i. 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.

d. Louisiana state central registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Other state's state central registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child placing agency.

e. Upon notification from child welfare that the individual is not listed on the state central registry, the provider shall maintain on file the state central registry clearance indicating that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible to provide services in a licensed child placing agency.

f. A request shall be submitted to child welfare every five years for contractors prior to 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.

g. 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 provider of the new information prior to their 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 valid (justified) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the child placing agency 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 must not be suspected to be a 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.

h. Upon notification to the provider from child welfare that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the child placing agency. 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 valid (justified) finding of abuse and/or neglect has been relieved of his duties with the child placing agency 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.

i. Any information received or knowledge acquired by the provider that a current contractor is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally 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 child placing agency, 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 must not be suspected to be a 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.

j. State central registry clearances are not transferable from one owner to another.

N. Foster Care, Adoption, and Transitional Placing

1. 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 child/youth.

2. 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:

a. attempted suicide;

b. serious threat or injury to the child/youth's health, safety, or well-being;

c. elopement or unexplained absence of a child/youth;

d. unplanned hospitalizations or emergency room visits;

e. use of restraints;

f. evacuation of children/youth;

g. injuries of unknown origin; and

h. 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 child/youth.

3. The program director or designee shall:

a. immediately verbally notify the legal guardian of any incident noted in §7313.N.2; and

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

4. If requested, the provider shall submit a final written report of the incident to the legal guardian as soon as possible, however no later than five working days of the incident.

5. All children/youth shall be accompanied by foster/adoptive parents or staff when emergency services are needed.

6. 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 the verbal notification. The provider shall immediately verbally notify the legal guardian and law enforcement in the event of a death. Report shall contain elements noted in §7313.N.8.

7. 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. For licensing purposes, the report shall contain elements noted in §7313.N.8.

8. At a minimum, the incident report shall contain the following:

a. date and time the incident occurred;

b. a brief description of the incident;

c. where the incident occurred;

d. names of any child, youth, foster/adoptive or respite parent, and staff involved in the incident;

e. immediate treatment provided, if any;

f. date and signature of the staff completing the report;

g. name and contact information of witnesses;

h. date and time the legal guardian, law enforcement, and licensing were notified; and

i. any follow-up actions required.

9. Program director or designee shall review each incident report within three calendar days and take appropriate corrective steps to prevent future incidents from occurring. Documentation to include the following:

a. actions taken regarding staff or foster/adoptive parents involved;

b. corrective action;

c. signature of program director or designee conducting review; and

d. date of review.

10. A copy of all written reports shall be maintained in a centralized record.

O. Data Collection and Quality Improvement—Foster Care, Adoption, Transitional Placing

1. The provider shall have written policies and procedures for maintaining a quality improvement program.

2. Provider shall perform a quarterly review of all incidents. Documentation of the quarterly review of incidents shall include:

a. date, time, list of children/youth, staff, and foster/adoptive parents involved in each incident;

b. patterns of behavior by specific child/youth, staff, and foster or adoptive parents;

c. plan of action for improvement in identified areas;

d. date review was completed; and

e. the signature of the staff person completing the review.

3. Documentation related to the quality improvement program shall be maintained for at least one year.

P. Abuse and Neglect—Foster Care, Adoption, Transitional Placing

1. The provider shall establish and follow written policies and procedures for detecting and reporting suspected abuse and/or neglect.

2. Child placing agency policies shall include current definitions of abuse and neglect, mandated reporting requirements to the child protection agency, and applicable laws.

3. Child placing agency policies and procedures shall protect the child/youth from potential harassment during the investigation.

4. Child placing agency policies and procedures shall ensure that the provider does not delay reporting suspected abuse and/or neglect to the Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437).

5. Child placing agency policies and procedures shall ensure that the provider does not require staff, including unpaid staff, to report suspected abuse/neglect to the provider or management prior to reporting to the Child Protection Statewide Hotline.

6. Child placing agency policies and procedures shall ensure the staff involved in the incident does not work directly with the child/youth involved in the allegation(s) until an internal investigation is conducted by the provider and no evidence of wrongdoing is found or the department does not recommend further action.

7. Child placing agency policies and procedures shall ensure that the staff person allegedly involved in the incident is not involved in conducting the investigation.

8. Child placing agency policies and procedures shall ensure that confidentiality of the incident is protected.

9. Child placing agency policies and procedures shall include abuse and neglect reporting protocol that requires all staff to report any incidents of abuse and/or neglect whether that abuse or neglect was perpetrated by another staff member, a family member, any other person.

10. As mandated reporters, all staff, owners, volunteers, and contractors shall report any suspected abuse and/or neglect of a child/youth whether that abuse or neglect was perpetrated by a staff member, a family member, or any other person in accordance with R.S 14:403 to the Louisiana Child Protection Statewide Hotline, 1-855-4LA-KIDS (1-855-452-5437). This information shall be posted in an area regularly used by staff.

11. Youth receiving transitional placing services shall be informed of the current definitions of abuse and neglect. Documentation in youth's file shall consist of a signed and dated statement by youth attesting that the information was provided or discussed.

12. Youth receiving transitional placing services shall be provided with the current Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437) for reporting abuse and/or neglect. Documentation in youth's file shall consist of a signed and dated statement by youth that the telephone number was provided.

Q. Children and Youth's Rights—Foster Care, Adoption, Transitional Placing

1. The provider shall have written policies and procedures that ensure each child/youth's rights are guaranteed and protected.

2. A child/youth's rights shall not be infringed upon or restricted in any way unless such restriction is necessary and noted in the child/youth's service or case plan. When individual rights are restricted, the provider shall clearly explain and document the restriction or limitation on those rights, the reasons the restrictions are necessary, and the extent and duration of those restrictions. Any restriction to the child's/youth's rights shall be approved by the legal guardian. The documentation shall be signed by child placing agency staff, the child/youth, if developmentally appropriate, and the child/youth's legal guardian(s). Neither the service nor the case plan shall restrict the access of a child/youth to legal counsel or state or local regulatory officials.

3. A child/youth has the right to personal privacy and confidentiality. Any records and other information about the child/youth shall be kept confidential and released only with the legal guardian's expressed written consent or as required by law. If youth is 18 years of age or older, youth's written consent shall be obtained.

4. A child/youth shall not be photographed or recorded without the express written consent of the child's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child/youth. If youth is 18 years of age or older, youth's written consent shall be obtained.

5. A child/youth shall not participate in research projects without the express written consent of the child/youth's legal guardian(s). If youth is 18 years of age or older, youth's written consent shall be obtained.

6. A child/youth shall not participate in activities related to fundraising and publicity without the express written consent of the child/youth's legal guardian(s). If youth is 18 years of age or older, youth's written consent shall be obtained.

7. A child/youth has the right to be free from mental abuse, emotional abuse, physical abuse, and neglect.

8. Physical restraints shall not be used on children/youth except when child/youth pose an immediate danger to self or others.

9. A child/youth's civil rights shall not be abridged or abrogated solely as a result of placement in the provider's program.

10. A child/youth has the right to be treated with dignity in the delivery of services.

11. A child/youth has the right to receive preventive, routine, and emergency health care according to his individual needs to promote his or her growth and development.

12. A child/youth has the right to be involved, as appropriate to age, development, and ability, in assessment and service planning.

13. A child/youth has the right to consult with clergy and participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services. The provider shall have a written policy of its' religious orientation, particular religious practices that are observed and any religious restrictions on admission. This description shall be provided to the child/youth and the child/youth's legal guardian(s). When appropriate, the provider shall determine the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall ensure the foster parent arranges transportation and encourages participation by children/youth who desire to participate in religious activities in the community.

R. Right to Contact with Family and Collateral—Foster Care and Transitional Placing

1. A child/youth has the right to consult and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. The reasons for any restrictions shall be recorded in the child/youth's service or case plan, approved by the legal guardian, and explained to the child/youth and his family. The child placing agency representative shall review the restrictions in the service plan every 30 days and, if restrictions are renewed, written approval by the legal guardian and the reasons for renewal shall be recorded in the child/youth's service plan. Documentation shall include signature and date of staff person reviewing the restrictions.

2. Written approval shall be required from the legal guardian prior to home visits being granted for youth receiving foster care or transitional placing services.

3. A child/youth has the right to telephone communication. The provider shall allow a child/youth to receive and place telephone calls in private subject only to reasonable rules and to any restrictions in the child/youth's service or case plan. The legal guardian shall approve any restriction on telephone communication in a child/youth's service plan. The child placing agency representative shall review the restrictions in the service plan every 30 days and, if restrictions are renewed, approval by the legal guardian and the reasons for renewal shall be recorded in the child/youth's service plan. There shall be no restrictions on communication between a child/youth and the child/youth's legal counsel.

4. A child/youth has the right to send and receive mail and electronic mail. The provider shall allow children/youth to receive and send all mail unopened, uncensored, and unread by staff unless contraindicated by the child/youth's service or case plan and approved by the legal guardian. The child placing agency representative and legal guardian shall review the restriction in the service plan every 30 days. Documentation shall include signature and date of staff person reviewing restrictions. Children/youth shall have access to all materials necessary for writing and sending letters and when necessary, shall receive assistance.

5. A child/youth has the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of his/her choosing.

6. A child/youth has the right to communicate freely and privately with state and local regulatory officials.

7. The provider shall have written strategies to foster ongoing positive communication and contact between children/youth and their families, friends, and others significant in their lives.

S. Acknowledgement of Rights—Foster Care, Adoption, Transitional Placing

1. At the time of admission and when changes occur, each child/youth shall be fully informed and provided with a copy of all rights appropriate to his age and development noted in Sections 7313.P,Q, and R and of all rules and regulations governing child/youths' conduct and responsibilities. There shall be documentation signed and dated by the program director or designee, legal guardian, and the child/youth, if age appropriate acknowledging receipt of the rights, rules, and regulations.

T. Prohibited Practices by Foster Parents, Adoptive Parents, and Staff

1. The provider shall have written policies and procedures regarding its discipline and behavior management program. The policy shall include approved and prohibited methods of discipline and behavior management.

2. The provider shall ensure its discipline and behavior management policy is maintained in writing, is current, and is available to the child and the child's legal guardian.

3. The provider shall maintain a list of prohibited practices for foster/adoptive parents and staff that shall include the following:

a. use of chemical or mechanical restraint;

b. use of a belt or in any other object for disciplinary purposes;

c. use of corporal punishment such as slapping, spanking, paddling;

d. use of marching, standing, or kneeling;

e. use of physical discomfort except as required for medical, dental, or first aid procedures necessary to preserve the child/youth's life or health;

f. denial or deprivation of sleep or nutrition except under a physician's order;

g. denial of access to bathroom facilities;

h. use of verbal abuse, ridicule, humiliation, shaming, or sarcasm;

i. use of derogatory remarks about the child, child's family members, race, or gender;

j. withholding of meals, except under a physician's order;

k. requiring a child/youth to remain silent for a long period of time;

l. denial of shelter, clothing or bedding;

m. use of harsh physical labor;

n. withholding of family visitation or communication with family;

o. withholding of emotional support;

p. denial of school services;

q. denial of therapeutic services;

r. use of painful stimulus to control or direct behavior;

s. use of hyperextension of any body part beyond normal limits;

t. use of joint or skin torsion;

u. use of straddling, pressure, or weight on any part of the body;

v. use of maneuvers that obstruct or restrict circulation of blood or obstructs an airway;

w. use of choking;

x. use of head hold where the head is used as a lever to control movement of other body parts;

y. use of punching, hitting, poking, pinching, or shoving;

z. use of punishment for actions over which the child has no control such as enuresis, encopresis, or incidents that occur in the course of toilet training activities;

aa. threatening child/youth with a prohibited action even though there is/was no intent to follow through with the threat;

bb. use of cruel, severe, unusual, degrading, or unnecessary punishment;

cc. use of yelling, yanking, shaking;

dd. use of exercise as a form of discipline

ee. exposing a child or youth to extreme temperatures;

ff. placing any object in a child's mouth as a form of discipline;

gg. use of abusive or profane language;

hh. covering mouth, nose, eyes, or any part of the face;

ii. placing a child or youth into uncomfortable positions;

jj. use of other impingements on the basic rights of children/youth for care, protection, safety, and security;

kk. use of organized social ostracism, such as codes of silence; or

ll. punishing a group of children/youth for actions committed by one or a selected few.

4. The child/youth, where appropriate, and the child/youth's legal guardian(s) shall receive a list of the prohibited practices within 10 calendar days of admission. If the child/youth is unable to read and comprehend the list of prohibited practices, the provider shall explain the list using developmentally appropriate language. There shall be documentation signed and dated acknowledging receipt of the list of prohibited practices by the child/youth where appropriate, and the child/youth's legal guardian(s)in the child/youth's record.

S. Grievance Process—Foster Care, Adoption, Transitional Placing

1. The provider shall have written policies and procedures outlining the process by which a child/youth may file a grievance against the child placing agency or foster/adoptive parent without fear of retaliation.

2. The written grievance procedure shall include a formal process for the child/youth to file grievances including procedures for filing verbal, written, or anonymous grievances.

3. The written grievance procedure shall include a formal process for the provider to respond to the child/youth's grievance within five calendar days of receipt of the grievance.

4. The provider shall have documentation signed and dated by the child/youth, if developmentally appropriate acknowledging that a written copy of the grievance procedure was provided to the child/youth within 10 calendar days of entering the program.

5. The provider shall maintain a log documenting all verbal, written, and anonymous grievances filed. This documentation shall include the date of the grievance, action taken by the provider in response to the grievance, and any follow up action involving the child/youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7315. Foster and Adoptive Certification

A. Home Study—Foster and Adoptive Home

1. Prior to placement of a child/youth in the home, the provider shall complete a home study of the foster/adoptive parent and their home. The home study shall be signed and dated by the person completing the home study and approved, signed, and dated by a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist prior to certification of the foster/adoptive parents.

2. The provider shall assess information gathered regarding the family, housing, and environment to either approve or deny certification for prospective foster/adoptive parents.

3. The provider shall conduct at least three consultation visits with prospective foster/adoptive families two of which shall be conducted in the home with the third visit either in the home or child placing agency office. The consultation visits shall be conducted on three different dates. The following interviews shall be conducted during each of the three consultation visits:

a. one joint interview with the prospective foster/adoptive parents;

b. one individual interview with each prospective foster/adoptive parent; and

c. one group interview with all individuals living in the home.

4. In addition to the interviews noted in §7315.A.3, one individual interview with each child six years old or older and capable of verbal communication living either full- or part-time in the home shall be conducted in the home.

5. In addition to the interviews noted in §7315.A.3. and 4., one individual interview with each other person living in the home either full or part-time shall be conducted in the home or the child placing agency office.

6. The following interviews shall be conducted either in person or by telephone for the following:

a. each minor child of the prospective foster/adoptive parents not living in the home age 6 years of age or older and capable of verbal communication;

b. at least one adult child of the prospective foster/adoptive parents not living in the home; and

c. a family member not living in the home and not yet interviewed.

7. Documentation of the consultation visits shall include the date, time, method of contact, duration of each interview, those present at each interview, relationship to the prospective foster/adoptive parents, and a summary of each interview.

8. Individuals interviewed in person shall sign and date summary written by the interviewer to ensure accuracy.

9. If the prospective foster/adoptive parents have school age children, an interview or reference letter shall be obtained from at least two school personnel who are unrelated to the foster/adoptive parents that can provide an opinion of the prospective foster/adoptive parents' suitability to provide care for children in foster care or available for adoption.

10. Throughout the home study process, the provider shall document and assess the following with regard to prospective foster/adoptive parents:

a. motivation and willingness to provide a foster/adoptive home placement for a child;

b. capacity to provide a foster/adoptive home placement for a child;

c. the number, age, and sex of children the foster/adoptive parent are willing to foster/adopt;

d. behaviors, health, or developmental conditions of the children which prospective foster/adoptive parents are willing to accept for placement;

e. prospective foster/adoptive parents feelings about their own childhoods and parents, including any history of abuse and/or neglect and their resolution of those experiences;

f. the nature and quality of prospective foster/adoptive parents respective roles and how those roles may change the present marital status or significant interpersonal relationship;

g. history of previous marriages or significant relationships and the reasons why those relationships ended;

h. prospective foster/adoptive parents religious faith, affiliation, practices, attitudes towards religion, openness to the religion of others, the role of religion in rearing children and willingness to respect and encourage a child's religious affiliation if different from their own;

i. prospective foster/adoptive parents sensitivity and personal feelings with regard to children who have been abused and/or neglected; understanding of the dynamics of child abuse and neglect and how these issues and experiences will affect their families, the children in their care, and themselves;

j. disciplinary beliefs and practices including how prospective parents were disciplined as children, their reactions to the discipline received, their ability to recognize and respect differences in children, and the need to use discipline methods that suit the individual child;

k. prospective foster/adoptive parents sensitivity and feelings regarding a child's experiences of separation from or loss of their birth families;

l. prospective foster/adoptive parents feelings about the child's parents, including the issue of abuse or neglect of the child by the child's parents or other family members; and sensitivity and reactions to the child/youth's parents;

m. prospective foster/adoptive parents sensitivity and acceptance of the child/youth's relationships with his siblings; their willingness to support the child/youth's relationships with parents, siblings, and extended family including support for contacts between the child/youth and the child/youth's family;

n. prospective foster/adoptive parent's attitude, sensitivity, tolerance, and acceptance of a child's race/ethnicity, heritage, and/or culture and willingness to respect, support, and encourage a child's connection to their culture of origin;

o. prospective foster/adoptive parents' formative experiences with foster care or adoption;

p. prospective foster/adoptive parents' plan for child care if foster/adoptive parents work outside of the home;

q. assessment of support systems shall include extended family available to foster/adoptive parents and support the family may receive from these resources and those available as caregivers during an unexpected event or crisis, such as an illness or disability of a foster/adoptive parent, loss of transportation, or the death of an immediate family member;

r. family background;

s. family traditions;

t. potential effect of foster/adoptive child on family relationships;

u. hobbies and interests of foster/adoptive parents and household members;

v. contact with extended family, integration into/involvement in community and the effect the addition of a new child will have on the family;

w. the impact the extended family's attitudes will have on the family's ability to provide foster/adoptive care;

x. plan in the event the foster/adoptive parent is unable to assist the child academically;

y. location of weapons, firearms, and ammunition and plans for safety once placement occurs;

z. attitude and capacity for handling a disruption if it occurs; and

aa. openness to adopt from a foster care situation should the opportunity present itself.

11. At least one applicant shall be functionally literate as required by Public Law 115-123.

12. For each prospective foster/adoptive household, the child placing agency shall document, assess, and verify that the prospective foster parents have income separate from foster care reimbursement to meet the needs of the family. Social Security Disability, Social Security, and/or other sources of income such as family support, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) shall be included to determine financial stability.

13. The child placing agency shall assess the potential negative impacts on the child/youth and family if a business open to the public adjoins the prospective foster/adoptive parent's household and assessment shall include the hours of operation, type of business, and clientele.

14. The prospective foster/adoptive parent shall be allowed the opportunity to review and obtain a copy of their

home study in accordance with agency policy whether the application was approved or denied for certification. Any quotes from reference letters or other third party letters or telephone reports from agencies or professionals or information obtained from or referencing criminal background clearances shall be deleted. Identifying information regarding the child/youth's birth family shall be removed, unless a release of information is obtained from the legal guardian. Information shall be made available to the applicant within seven calendar days of the request.

B. Criminal Background Clearances—Foster and Adoptive Parents

1. Prior to certification, provider shall submit a request to DCFS for a criminal background check through the Federal Bureau of Investigation (FBI) for any applicant(s) and any member of the applicant's household aged 18 years and older in accordance with R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89. Provider shall submit a request to DCFS for a criminal background check through the FBI within 30 calendar days of the household member, excluding children in DCFS custody, attaining their 18th birthday.

2. Effective April 1, 2019, CBCs shall be accepted for a period of three years from the date of issuance and shall be kept on file at the agency. Prior to three years from the date of issuance noted on the CBC, a new satisfactory fingerprint-based CBC shall be obtained for all household members aged 18 years and older, excluding children in DCFS custody, from DCFS through the FBI.

a. CBCs obtained prior to April 1, 2019, are acceptable for three years from date of issuance. For CBCs dated prior to April 1, 2016, the provider shall submit a new request to DCFS for a criminal background check through the FBI no later than April 1, 2020.

3. Effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the applicant being certified and/or having access to children/youth or a household member moving into the home. CBCs are not transferable from one owner to another.

4. No applicant, having any supervisory or other interaction with children/youth, shall be certified by the agency until such person has submitted his or her fingerprints to DCFS for a criminal background check through the Federal Bureau of Investigation, and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

5. Any foster/adoptive parent(s) who is subsequently convicted of or pleads nolo contendere to any crime listed in R.S. 15:587.1(C) after certification, shall no longer be certified to foster or adopt children/youth through the child placing agency after such conviction/guilty plea of nolo contendere. The children placed in the home shall be immediately removed and foster/adoptive parents decertified.

C. State Central Registry Clearances—Foster and Adoptive Parents

1. An inquiry of the state central registry for members of the household 18 years of age and older, excluding children in DCFS custody shall be conducted prior to certification and annually thereafter. No person whose name is recorded on the state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

2. If any member of the household 18 years of age or older resided in another state within the proceeding five years, the provider shall request and obtain clearance information from that state's child abuse and neglect registry prior to certifying the foster/adoptive parents. Out of state clearances shall be requested and clearance information obtained after the application is received by the child placing agency and prior to certification and placement of a child in the home. No person whose name is recorded on any state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

3. An inquiry of the state central registry shall be submitted within 30 calendar days of a household member, excluding children in DCFS custody, attaining their 18th birthday. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

4. Prior to any person 18 years or older moving into the home, excluding children in DCFS custody, a state central registry clearance shall be obtained. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

5. If an individual recorded on the state central registry is found to be living in the home, the children placed in the home shall be immediately removed and the foster/adoptive parents decertified.

6. The DCFS state central registry clearance form shall be dated no earlier than 45 days of the foster/adoptive parents being certified or household members over the age of 18 years being present in the home. Out-of-state clearance forms shall be dated no earlier than 120 days of foster/adoptive parents being certified.

7. If foster/adoptive parent receives a valid finding after receiving state central registry clearance form from child welfare indicating that he/she was not listed on the state central registry and the child placing agency is notified prior to the individual's appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The child placing agency shall follow the recommendations of the department regarding any DCFS children in the care of the foster/adoptive parents.

8. State central registry clearances are not transferable from one owner to another.

D. Foster and Adoptive Parent Responsibilities

1. Foster/adoptive parents shall recognize and encourage acceptable behavior.

2. Foster/adoptive parents shall teach by example and use fair and consistent rules with logical consequences.

3. Foster/adoptive parents shall use methods of discipline that are relevant to the behavior.

4. Foster/adoptive parents shall supervise with understanding, firmness, and discipline.

5. Foster/adoptive parents shall give clear directions and provide guidance consistent with the child's level of understanding.

6. Foster/adoptive parents shall redirect the child by stating alternatives when behavior is unacceptable.

7. Foster/adoptive parents shall express themselves so the child understands that his/her feelings are acceptable and certain actions or behavior are not.

8. Foster/adoptive parents shall help the child learn what conduct is acceptable and appropriate in various situations.

9. Foster/adoptive parents shall encourage the child to control his/her own behavior, cooperate with others and solve problems by talking.

10. Foster/adoptive parents shall communicate with the child by showing affection and concern.

11. Foster/adoptive parents shall encourage the child to consider others' feelings.

12. Neither foster nor adoptive parent(s) shall care for unrelated adults on a commercial basis nor accept children into the home for day care at the same time they are certified to provide foster care.

13. Foster/adoptive parents shall obtain written approval from the legal guardian prior to allowing a child to be away from the foster or adoptive home for more than three consecutive days.

14. Foster/adoptive parents shall obtain medical care for a child/youth as needed.

15. Foster/adoptive parents shall notify the child placing agency prior to a change in address.

16. Foster/adoptive parents shall notify the child placing agency of a significant change in circumstances in the home which effects the foster/adoptive child including, but not limited to a job loss of a caretaker, serious injury or death of a caretaker, or a change of persons living in the home.

17. Foster/Adoptive parents shall provide structure and daily activities designed to promote the individual, social, intellectual, spiritual, and emotional development of the child/youth in the home.

18. Foster/Adoptive parents shall assist the child/youth in developing skills and performing tasks which will promote independence and the ability to care for themselves.

19. Foster/adoptive children may assume age appropriate household responsibilities commensurate with those expected of foster/adoptive parent’s own children.

20. Foster/adoptive parents shall teach money management, budgeting, and making responsible purchases as age appropriate.

21. Foster/adoptive parents shall teach/promote personal hygiene and grooming skills appropriate to the child's sex, age, and culture through daily monitoring.

E. Foster/Adoptive Parent(s) Record

1. The provider shall maintain a record for each foster/adoptive parent, which shall contain the following information and shall be updated as changes occur:

a. household composition: the full legal names of all persons residing in the home, birth dates, relationship to one another, name preferred to be called, level of education, and marital status;

b. copy of home study;

c. copy of a valid, current driver’s license for all household members providing transportation for children in foster care and through adoption finalization (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

d. proof of current liability insurance for all vehicles used to transport foster children or children prior to finalization owned or leased by the foster family (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

e. expiration date of the inspection sticker for all vehicles used to transport foster children or children prior to finalization (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

f. current copy of vehicle registration for all vehicles used to transport children/youth (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

g. criminal record check reports as required in §7315.B for all household members 18 years of age and older, excluding youth in DCFS custody;

h. state central registry clearances as required in §7315.C for all household members 18 years of age and older, excluding youth in DCFS custody;

i. history of prior applications to foster and/or adopt and the reason for withdrawals or closures. If a prospective foster parent was previously certified as a foster/adoptive parent by another provider or DCFS and the prospective foster/adoptive parent's home was closed, verification of the closure and a statement to indicate whether the closure was at the request of the prospective foster/adoptive parent or the provider shall be obtained by the provider from the other agency;

j. contract/placement agreement between the child placing agency and the foster/adoptive parent;

k. documentation of current immunizations from a licensed veterinarian for all pets in the household;

l. documentation of marital status of prospective foster/adoptive parent if legally married, divorced or widowed;

m. for a prospective foster/adoptive parent who is separated and whose spouse no longer resides in the home, a notarized statement from the prospective foster/adoptive parent indicating such and attesting that the child placing agency will be notified in writing prior to the spouse moving back into the home is required;

n. copy of a current federal or state issued photo identification card;

o. documentation that the prospective foster parent is at least 21 years of age or if a relative certified by DCFS child welfare, that the relative meets the age requirements set forth in DCFS child welfare policy;

p. documentation of quarterly contact between the provider and prospective foster parent noting foster parents continued interest and availability to foster from time of application until placement.

2. Proof of the prospective foster/adoptive family’s income for the past 60 days shall be included in the record.

3. Documentation of itemized monthly expenses to include the following shall be maintained in the foster/adoptive parent’s record:

a. mortgage/rent;

b. utility cost;

c. transportation costs;

d. food costs;

e. medical expenses;
f. clothing allowance;
g. insurance cost;
h. credit card payments;
i. loan payments;
j. child support obligations;
k. alimony obligations;
l. pet costs;
m. entertainment/miscellaneous costs; and
n. other household expenses.

4. A statement of health dated within three months prior to certification and updated every three years for each member of the prospective foster/adoptive parent's household signed by a licensed physician or licensed health care professional verifying that the individual:

a. has no past nor present physical or mental illness or condition that would present a health and safety risk to a child placed in the prospective foster parent's home; and

b. is free of communicable or infectious disease or if not free of communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

i. the individual is under the care of a licensed physician or licensed health care professional;

ii. the present condition does not present a health or safety risk to a child placed in the prospective foster/adoptive parent's home; and

iii. foster/adoptive parents are physically able to provide necessary care for a child.

5. Within 30 calendar days of a household member attaining their 18th birthday, excluding children in DCFS custody, a statement of health as noted in §7315.E.4 shall be obtained.

F. Physical Plant Requirements for Foster and Adoptive Homes

1. The home shall be in good repair and the exterior around the home shall be free from objects, materials, and conditions which constitute a danger to the children served.

2. The home shall have a safe outdoor play area which children may use either on the property or within a reasonable distance of the property. If there is no outdoor play area within a reasonable distance, foster parents shall identify an alternative location for outdoor play.

3. Open cisterns, wells, ditches, fish ponds, and other bodies of water shall be made inaccessible to children.

4. Swimming and wading pools shall be locked and inaccessible to children except when under adult supervision.

5. In accordance with Public Law 115-123, swimming pools shall have a barrier of at least four feet high.

6. In accordance with Public Law 115-123, swimming pools shall be equipped with a life saving device, such as a ring buoy.

7. In accordance with Public Law 115-123, if the swimming or wading pool is not emptied after each use, the pool shall have a working pump and filtering system.

8. In accordance with Public Law 115-123, hot tubs and spas shall have safety covers that are locked when not in use.

9. The home shall have equipment for the safe preparation, storage, serving of, and cleaning after meals.

10. All plumbing, cooking and refrigeration equipment shall be in working order.

11. All areas of the home shall be maintained in sanitary condition.

12. The home shall have a dining area furnished so that all members of the household may eat together.

13. The home shall have living or family room space furnished and accessible to all members of the family.

14. The home shall have a minimum of one flush toilet, one sink, and one bath or shower with hot and cold water.

15. Bathroom shall be equipped with toilet paper, towels, soap, and other items required for personal hygiene and grooming.

16. The home shall be free of security/video cameras in the bathroom to allow the child/youth privacy.

G. Bedroom Requirements—Foster and Adoptive

1. Each child shall have his/her own bed. The mattress shall at a minimum be a standard twin size. The mattress shall be clean, comfortable, and non-toxic. Upon placement each child should be provided with a new mattress or new water proof mattress cover.

2. Each child shall have a chest, dresser, or other adequate storage space for the child's clothing and personal belongings in the child's bedroom and a designated space for hanging up clothes in or near the bedroom occupied by the child.

3. Each bedroom shall have adequate space to be used by children for daily activities.

4. Infants shall be placed in an approved crib for sleeping per current industry safety standards. The crib shall meet U.S. Consumer Product Safety Commission (CPSC) requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220. A crib meets the requirements of this section if:

a. the crib has a tracking label which notes that the crib was manufactured on or after June 28, 2011; or

b. the foster/adoptive parent has a registration card which accompanied the crib noting that the crib was manufactured on or after June 28, 2011; or

c. the foster/adoptive parent has a children's product certificate (CPC) certifying the crib meets the requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

5. The crib shall be equipped with a firm mattress and well fitting sheets. Mattresses shall be of standard size so that the mattress fits the crib frame without gaps of more than one-half inch. Homemade mattresses are prohibited.

6. The minimum height from the top of the mattress to the top of the crib rail shall be 20 inches at the highest point.

7. The mattress support system shall not be easily dislodged from any point of the crib by an upward force from underneath the crib.

8. Cribs shall be free of toys and other soft bedding, including blankets, comforters, bumper pads, pillows, stuffed animals, and wedges when the infant is in the crib.

9. An infant shall be placed on his/her back for sleeping. Written authorization from the infant's physician is required for any other sleeping position.

10. Children/youth shall be allowed to personalize an area within the bedroom .

11. Children/youth shall be provided bed linens, blankets, and pillows for individual use.

12. The home shall be free of security/video cameras in the bedroom of a child over the age of 5 years. A security/video camera may be used in a child's bedroom for a child over the age of 5 years with developmental, medical, or behavioral needs if documented in the child's service plan.

13. Foster/adoptive parent(s) shall permit no more than four children/youth to a bedroom.

14. Children six years of age and older shall not share a bedroom with a person of the opposite sex.

15. Children with the exception of infants shall not share a bedroom with adults, except when the child needs close supervision due to illness or medical condition and approval is received from the child placing agency; however, a child shall not share a bed with an adult under any circumstances.

H. Safety Requirements—Foster and Adoptive Homes

1. The home shall have a working heating and air conditioning system.

2. The home shall have a telephone capable of outgoing calls that is accessible at all times to children/youth. In accordance with Public Law 115-123, a comprehensive list of emergency telephone numbers to include the number for poison control shall be posted next to the telephone if the phone is stationary or in a common area used by children/youth for portable or cell phones.

3. There shall be safe storage for medication, poisons, and other harmful materials in the home.

4. Foster/adoptive parents shall take measures to keep the home and premises free of rodents and insects.

5. Foster/adoptive parents shall restrict access to potentially dangerous animals.

6. Foster/adoptive parents shall store dangerous weapons, firearms, air guns, BB guns, hunting slingshots, and other projectile weapons in a locked area inaccessible to children, in accordance with Public Law 115-123. Ammunition shall be stored in a separate locked area.

7. First aid supplies shall be accessible in the home.

I. Fire Safety Requirements—Foster and Adoptive Homes

1. The home shall be free from fire hazards, such as faulty electric cords and appliances, or fireplaces and chimneys that are not maintained.

2. The home shall be equipped with operating smoke detectors in each hallway, kitchen, and child's bedroom.

3. The home shall be equipped with an operating carbon monoxide detector in each child's bedroom.

4. A portable chemical fire extinguisher shall be in the cooking area of the home.

5. Foster/adoptive parents shall establish an emergency evacuation plan and shall practice it at least quarterly ensuring children understand the procedures. Documentation shall consist of a quarterly note signed and dated by provider in the foster/adoptive parent record indicating that the emergency evacuation plan was discussed and practiced quarterly as required.

6. Combustible items shall be stored away from heat sources.

7. Home heating units shall be shielded to prevent accidental contact.

8. Foster/adoptive parents shall ensure solid fuel heating stoves, systems, and fireplaces are properly installed, maintained, and operated.

J. Sanitation and Health Requirements—Foster and Adoptive Homes

1. The home shall have clean drinking water. If the water is not from a city water supply, the foster/adoptive parent(s) shall provide documentation that the water has been tested and approved by the local health authority.

2. All plumbing in the home shall be in working order.

3. The home shall have hot water. Hot water accessible to children shall not exceed 120 degrees Fahrenheit at the outlet.

K. Food and Nutrition Requirements—Foster and Adoptive Homes

1. The milk served to children shall be Grade A and pasteurized.

2. Foster/adoptive parents shall provide nutritionally balanced meals daily. Children/youth shall be provided a snack between meals and prior to bedtime.

3. As recommended by a licensed physician or in accordance with the child/youth's case or service plan, foster/adoptive parent shall provide for any special dietary needs of the child placed in the home.

4. When applicable, the dietary laws of the child/youth's religion shall be observed for the food provided to the child/youth.

L. Clothing and Personal Belongings Requirements—Foster and Adoptive Homes

1. Foster/adoptive parents shall provide each child/youth with their own clean, well fitting, seasonal clothing appropriate to age, sex, individual expression, and comparable to other household members and to the community standards.

2. A child/youth shall not be required to share clothing.

3. Clothing and personal belongings shall be sent with the child/youth if the child/youth leaves the care of the family.

4. Only shoes in good repair and condition shall be provided to the child/youth.

5. Children/youth shall be allowed to choose their own clothing whenever possible.

6. Children/youth shall be allowed to bring, possess, and acquire personal belongings subject only to reasonable household rules.

7. Each child/youth shall be provided with clean towels, washcloths, his/her own toothbrush, his/her own comb or hair brush, personal hygiene items, and other toiletry items suitable to the child/youth's age and sex.

M. Money Requirements—Foster and Adoptive Homes

1. In addition to the mandated allowance, children/youth may earn additional money through paid work, employment, or money paid directly to the child/youth from other sources as appropriate to their age and ability.

2. A child/youth's money from any source shall be his/her own and may only be subject to restrictions in accordance with his/her service or case plan.

3. Children/youth shall not be required to pay for any mandated foster/adoptive home service.

4. Children/youth shall not be required to pay for basic personal hygiene or toiletry items.

N. Transportation—Foster Care, Adoption, Transitional Placing

1. The foster/adoptive parent(s) shall have access to reliable transportation to transport the child/youth to school, recreational activities, medical care, and community facilities.

2. The provider shall assist children/youth and families in arranging transportation necessary for implementing the child/youth's service and case plans.

3. The provider shall have a means of transportation for children/youth which are equipped with appropriate safety restraints in accordance with state laws and standards. No child/youth shall be transported in any vehicle unless seat belts and age appropriate child restraints are utilized in accordance with state law and standards.

4. The provider and staff shall maintain and operate vehicles used for transporting children/youth in safe condition and in conformity with appropriate motor vehicle laws and standards.

5. The provider shall have documentation of current liability insurance for all child placing agency and staff vehicles used for transporting children/youth. The provider shall maintain in full force at all times current commercial liability insurance for the operation of child placing agency vehicles. Documentation shall consist of the insurance policy or current binder which includes the name of the agency, the name of the insurance company, policy number, period of coverage, and explanation of the coverage. If a staff person provides transportation for children/youth in the course and scope of his/her employment, the provider shall maintain a copy of staff's current vehicle insurance.

6. All child placing agency and staff vehicles used to transport children/youth shall have a current safety inspection sticker. Documentation confirming visual inspection of safety inspection sticker shall include the signature and date of the staff that viewed the inspection sticker, expiration date of sticker, and vehicle's make, model, and license plate number.

7. All aspects of the vehicle used to transport foster/adoptive children/youth shall be maintained in good repair including, but not limited to seats, doors, lights, and tires.

8. All child placing agency and staff vehicles used to transport children/youth shall be currently registered. The provider shall maintain a copy of the current registration for all foster/adoptive parents, staff, and child placing agency vehicles used to transport children/youth.

O. Child Placing Agency Responsibilities—Foster Care, Adoption, Transitional Placing

1. The provider shall ensure that the child/youth has clothing for the child/youth's exclusive use in quality and variety to that worn by other children/youth with whom the child/youth may associate.

2. The provider shall be responsible for monitoring the child/youth's school progress and attendance.

3. The provider shall secure psychological and psychiatric services, vocational counseling, or other services as indicated by the child/youth's service plan or case plan.

4. When requested by the legal guardian, the child placing agency shall have a representative present at all judicial, educational, or administrative hearings that address the status of a child/youth in care of the provider. The provider shall ensure that the child/youth is given an opportunity to be present at such hearings, unless prohibited by the child/youth's legal guardian or by his/her case plan.

P. Training the Foster and Adoptive Parent(s)

1. The foster/adoptive parent(s) shall participate in training provided or approved by the child placing agency to develop and enhance their parenting skills.

2. The child placing agency shall provide orientation to prospective foster/adoptive parents prior to certification, to include the following:

a. mission and program description;

b. realities of children available for adoption;

c. long term impacts of prenatal substance abuse exposure;

d. impact of the lack of pre-natal care on infants/children available for placement;

e. impact of stress on pre-natal environments;

f. in person, by video, or written account from a certified foster/adoptive parent that has fostered or adopted a child;

g. the stages of grief to include identification of behaviors linked to each stage;

h. long-term effect of separation and loss on a child;

i. permanency planning for a child, including independent living services;

j. the importance of attachment on a child's growth and development to include bonding issues;

k. development and maintenance of a healthy attachment between the child and foster/adoptive parent;

l. cultural awareness;

m. reasons children enter care;

n. the placement decision process;

o. changes that may occur in the home if a placement occurs;

p. family adjustment;

q. identity issues;

r. trauma;

s. types of abuse and neglect (physical, sexual, emotional);

t. developmental milestones;

u. prohibited practices;

v. rights and responsibilities of foster/adoptive parents;

w. placement or adoption disruption;

x. behavior management; and

y. substance abuse prevention and warning signs.

3. Documentation of completion of orientation training shall include training topics, foster/adoptive parent's signature, and date.

4. Prior to certification, the child placing agency shall discuss options with adoptive parents on how to discuss adoption with the child. Documentation shall include the adoptive parent's signature and date.

5. Once certified, a minimum of 15 hours of child placing agency approved training shall be received by the foster parents prior to certification expiration. The hours may be shared among the adult members of the family, however, each adult shall receive a minimum of five hours. Documentation of training completed shall include certificate of participation or sign in log specifying foster parent's name, training topic, date, and number of hours completed.

6. Prior to certification and updated annually, documentation of reasonable and prudent parent training for all foster/adoptive parents shall be maintained. Documentation shall include the training topics, foster/adoptive parent signature, and date. Reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

a. age or developmentally appropriate activities or items;

b. reasonable and prudent parent standard;

c. role of the foster/adoptive parents and of DCFS; and

d. allowing for normalcy for the child while respecting the parent's residual rights.

7. Prior to certification, all prospective foster/adoptive parents shall receive certification in infant/child and adult cardiopulmonary resuscitation (CPR) and first aid. This training may be applied toward meeting the annual required training hours as noted in §7315.P.5. DCFS certified homes shall follow the CPR requirements as noted in DCFS child welfare policy.

8. Prior to certification, all prospective foster/adoptive parents shall complete the DCFS "mandated reporter training" available at dcfs.la.gov. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

9. Prior to certification all prospective foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

10. Effective April 1, 2019, currently certified foster/adoptive parents shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within 45 days and annually thereafter. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

11. Effective April 1, 2019, currently certified foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org within 45 days and annually thereafter. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

12. Effective April 1, 2019, currently certified foster/adoptive parents shall receive certification in infant/child and adult cardiopulmonary resuscitation (CPR) and first aid within 60 days. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5. DCFS certified homes shall follow the CPR requirements as noted in DCFS child welfare policy.

Q. Support Systems—Foster and Adoptive

1. Foster/adoptive parent(s) shall have or develop a support system for supervising and providing care to allow foster/adoptive parent(s) opportunities for occasional breaks from caring for the child(ren).

2. Foster/adoptive parent(s) shall have at least one adult (age 18 or older) responsible for the supervision of children or available at all times when a foster/adoptive parent is not present.

R. Denial of a Foster or Adoptive Parent Application

1. The child placing agency shall initiate the home study within 30 calendar days of receipt of the completed application or notify the applicant in writing within 35 calendar days of receipt of the completed application of the reason the home study will not be conducted. Documentation of notification shall be maintained.

2. The applicant shall be notified in person or by telephone within 30 calendar days of completion of the home study, if the request to become a foster/adoptive parent is not recommended. The provider shall enter a dispositional summary in the applicant(s) case record clearly indicating the date of denial, the reason for denial of the application for certification, the manner in which the decision was presented to the family, and applicant's reaction to the decision within 10 calendar days of notification.

3. If the applicant withdraws the request to become a foster/adoptive parent, the child placing agency shall send written confirmation to the applicant acknowledging the withdrawal within seven calendar days of receipt of withdrawal request. Documentation of notification shall be maintained.

S. Service Plan for Children placed with Foster and Adoptive Parents

1. Within 15 calendar days of a child's placement, the provider shall develop a service plan based upon the individual needs of the child/youth.

2. A child/youth has the right to be involved in assessment and service planning as appropriate to his age, development, and ability.

3. Foster/adoptive parents shall support and follow the service plan providing input to the child placing agency of recommended changes or updates.

4. Foster/adoptive parents shall cooperate with the support and implementation of the permanency goal established for a child/youth placed in their home.

5. The service plan meeting shall include the foster parent, child/youth if developmentally appropriate, and the legal guardian. Documentation shall include the date of service plan meeting, names of individuals invited, and signatures of attendees. If the legal guardian is unable to attend, provider shall obtain legal guardian's signature or document that the service plan was submitted to the legal guardian within seven calendar days of the meeting.

6. The provider shall review the child/youth's service plan on a quarterly basis or more frequently as the child/youth's needs or circumstances dictate. Documentation shall include the signature of reviewer and date of each child/youth's service plan review.

T. Lifebook—Foster Care and Adoption

1. Every child/youth placed in foster care or for adoption shall have a lifebook. For children who are developmentally unable to participate in the creation and

updating of their own lifebook, foster/adoptive parents shall create and update for the child/youth.

2. Effective April 1, 2019, provider shall ensure that each child/youth who is developmentally able is assisted at least monthly in creating and updating their lifebook.

3. Lifebooks shall be the property of children/youth and shall remain with the child/youth when placement changes or upon discharge.

4. Lifebooks shall be available for review by DCFS during visits to the foster/adoptive home.

U. Decertification of a Foster or Adoptive Parent

1. Foster/adoptive parent shall be decertified if:

a. it is determined by the child placing agency that the family no longer meets the requirements;

b. a situation arises that is not in the best interest of children;

c. abuse and/or neglect by the foster/adoptive parent is substantiated;

d. abuse and/or neglect by a member of the home is substantiated, other than the foster/adoptive parent if the individual remains in the home;

e. foster/adoptive parent develops a serious physical or mental illness that may impair the ability to provide adequate care of a child/youth; or

f. the foster/adoptive parent requests to withdraw from participation as a foster/adoptive parent.

2. If the home is to be decertified, the provider shall make adequate preparation and arrangements for the care, custody, and control of any children placed in the home.

3. The provider shall confirm, in a written notice to the foster/adoptive parent, the decision to decertify the home. The notice shall be delivered to the foster/adoptive parent within 10 calendar days of the decertification decision. The written notice for decertification shall include the name of the foster/adoptive parent, the reason for decertification, and the effective date. Documentation of notice shall be maintained.

V. Reapplication for Certification for Foster and Adoptive Parents

1. To reapply, a former foster/adoptive parent shall follow all requirements noted herein that are in effect at the time of re-application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7317. Interstate Compact on the Placement of Children (ICPC)

A. Provider shall have documentation of approval from the administrator of the Louisiana Interstate Compact on the Placement of Children (ICPC) prior to sending a child to another state for foster/adoptive services. No placement shall occur without prior approval from the compact administrator in Louisiana.

B. Provider shall have documentation of approval from the administrator of the Louisiana ICPC prior to receiving a child from another state for foster/adoptive services. No placement shall occur without prior approval from the compact administrator in Louisiana.

C. A child adopted through the court of jurisdiction in a foreign country or entering Louisiana directly from the foreign country for purposes of adoption are not subject to the Interstate Compact on the Placement of Children.

D. Upon placement of a child in Louisiana, provider shall follow all child placing agency standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7319. Foster Care Services

A. Types of Foster Care Services

1. The provider may offer any or all of the following types of services in an approved foster home:

a. foster care services;

b. therapeutic foster care services; and/or

c. respite care services.

2. Number of Children—Foster Home

a. At any given time, a foster home shall have no more than six dependents including foster children, dependent children, dependent adults, and children for whom respite is provided with the exception of a sibling group, who may remain together.

b. Prior to exceeding six dependents in a foster home written approval from the child welfare state office shall be obtained.

c. Documentation from child welfare state office shall include:

i. name of the CPA for which approval is granted;

ii. name of foster parent for which approval is granted;

iii. names and birth dates of all dependents in the home at the time approval is granted;

iv. name and birth date of child/youth for which approval is granted;

v. signature and date of child welfare state office staff granting approval which shall be prior to the placement date; and

vi. conditions if any, for which approval is granted.

3. No more than two children under two years of age shall be placed in the same foster home, with the exception of a sibling group.

a. Prior to exceeding two children under two years of age in the same foster home at the same time, with the exception of a sibling group; written approval from child welfare state office shall be obtained.

b. Documentation from the child welfare state office shall include:

i. name of the CPA for which approval is granted;

ii. name of foster parent for which approval is granted;

iii. names and birth dates of all dependents at the time approval is granted;

iv. name and birth date of child/youth for which approval is granted;

v. signature and date of child welfare state office placement services section staff granting approval which shall be prior to the placement date; and

vi. conditions, if any, for which the approval is granted.

B. Additional Requirements for Therapeutic Foster Care (TFC) Services.

1. The TFC parent who is the primary care giver shall have documentation of a high school diploma or equivalent.

2. The TFC foster home parents shall complete a minimum of 24 hours of annual training in addition to the 15

hours of training required under §7315.P.5. For two-parent therapeutic foster care homes, the 39 total training hours as required in this section may be divided between the two TFC parents, as long as the primary caretaker receives a minimum of 16 hours of the 39 required hours and the other parent receives a minimum of eight hours of the 39 required hours. Documentation shall include a certificate or sign in sheet with the training topic, number of hours, trainer's name and signature of individual attending.

a. Fourteen hours of the twenty-four hours of annual training may be met through professional therapeutic consultation or medical training aimed to assist in parenting a child placed or being placed.

3. Approval from the child welfare state office staff shall be obtained and documented prior to 1) exceeding four dependents, including foster children/youth, dependent children, dependent adults, and children for whom respite is provided in a TFC home and/or 2) exceeding two TFC children/youth in a home, unless the additional child/youth is a sibling of one of the TFC children.

4. Documentation from the child welfare state office shall include:

a. name of the CPA for which approval is granted;

b. name of foster parent for which approval is granted;

c. names and birth dates of all dependents in the home at the time approval is granted which identifies children/youth receiving TFC services;

d. name and birth date of child/youth for which approval is granted;

e. signature of child welfare state office staff granting approval which shall be prior to the placement date; and

f. conditions, if any for which approval is granted.

C. Placement of Child in Foster Home

1. The provider shall place a child/youth only with certified foster parents in an approved home.

2. The provider shall select a foster home for a child/youth based upon the individual needs of the child, to include the child's assessment, the child's needs, and measures required to support the safety of the child. The placement decision including the child placing agency staff's signature and date shall be documented in the child's file.

3. The type of placement for each child/youth shall be determined by amount of supervision required, support services needed, and training received by the foster parent to assist in meeting the needs of the child.

4. The provider shall have a written child specific placement agreement with the foster parent for each child/youth placed indicating at a minimum the responsibilities of the child placing agency and foster parent to include:

a. rights and responsibilities of the child placing agency and foster parent;

b. agreement by the family to work in partnership with the child placing agency to provide foster care services to the child/youth;

c. agreement that the foster parent is able and willing to communicate with the child in the child's own language as required by Public Law 115-123;

d. willingness and ability of the foster parent to communicate with the child placing agency, health care and other service providers on behalf of the child in accordance with Public Law 115-123;

e. confidentiality of all personal information about the child and the child's family confidential;

f. receipt of a daily board rate paid monthly by the child placing agency;

g. agreement to cooperate with the agency/provider when it is necessary to remove a child from the foster home for any reason;

h. reporting to the child placing agency all changes in circumstances affecting the child/youth or the foster care placement;

i. obtaining the consent of the CPA prior to taking the child/youth out-of-state or authorizing any special medical care or treatment for the child;

j. promotion of healthy foster parent-child adjustment and bonding by the CPA by providing support services to the foster parents;

k. prohibited use of any illegal substances, alcohol abuse including the consumption of alcohol in excess amounts, or legal prescription or nonprescription drug abuse via consumption of excess amounts or contraindicated usage as required by Public Law 115-123;

l. foster parent(s) nor guests shall smoke in the presence of a child in foster care, in the family home or in any vehicle used to transport a child as required by Public Law 115-123;

m. as required by Public Law 115-123, maintaining the swimming pool in a safe condition, including testing and maintaining chlorine and pH levels as required by the manufacturer's specifications;

n. as required by Public Law 115-123, locking all entry points to the swimming pool, when not in use;

o. as required by Public Law 115-123, removing or secure steps or ladders to the swimming pool, if applicable when the pool is not in use; and

p. as required by Public Law 115-123, no transporting of weapons in any vehicle in which a foster child is riding unless the weapons are made inoperable and inaccessible.

6. The child specific placement agreement shall be signed and dated by a child placing agency representative and foster parent prior to or at the time of placement.

7. The child placing agency shall provide foster parent with written instructions for contacting agency personnel to include names and telephone numbers prior to or at the time of placement.

D. Supervision for Foster and TFC Homes

1. Provider shall conduct an initial in home face-to-face supervisory visit with the child and one foster parent on the day of the child's placement or the following calendar day. A subsequent face-to-face in home supervisory visit shall be conducted with the foster parent and child within 10 calendar days of the child's placement.

2. Provider shall have at least weekly telephone contact with one of the foster parents.

3. Provider shall conduct supervisory visits with one foster parent at least twice monthly with at least one visit

occurring in the foster home. Supervisory visits with foster parents of infants shall be conducted while the infant is present in the home.

4. Provider shall conduct a private supervisory visit with the foster child/youth age one year and above, a minimum of twice monthly with at least a segment of one visit occurring in the foster home.

5. Documentation of the contacts noted in §7319.D.1-4 shall include:

a. date and time of visit or phone contact;

b. individuals present;

c. location of visit;

d. duration of visit;

e. assessment of adjustment of the child and foster parent;

f. assessment of attachment and bonding;

g. assessment of health of child;

h. changes since last contact;

i. summary of visit or phone contact; and

j. signature of person conducting visit or phone contact.

6. Provider shall supervise visitation between the child and birth family if required in the case or service plan.

7. Provider shall assist with transporting the child/youth to appointments if the foster parent is unable.

8. The child placing agency shall provide 24 hour crisis intervention to the foster family such as defusing potentially dangerous situations between children and/or towards foster parent when requested or a need detected.

E. Foster Child's Record

1. Information received verbally from the referring agency shall be documented by the child placing agency in the child/youth's record. Documentation shall include the name of the referring agency representative from whom the information was received, date, summary of information, and the name of the child placing agency representative to which the information was provided. Information received in writing from the referring agency shall be filed in the child/youth's record.

2. Prior to placement, the provider shall obtain as much information as possible from the referring agency about the child/youth and the child/youth's family in order to find the most suitable home for a child. Provider shall document in the child/youth's record a summary containing justification for placement decision to include the provider's assessment of the strengths and needs of the foster family.

3. Prior to placement and as information is made available to the child placing agency, the child placing agency shall provide information to a foster parent regarding the behavior and development of the child.

4. Prior to placement and as information is made available to the child placing agency, the provider shall inform the foster parent of inappropriate sexual acts or sexual behavior of the child/youth known to the provider and any behaviors of the child/youth that indicate a safety risk for the placement.

5. Prior to placement, the provider shall be responsible for obtaining a placement agreement between the child placing agency and referring agency. This agreement shall be filed in the child/youth's record.

6. The provider shall obtain and document the following information within 30 calendar days of placement:

a. child/youth's name, previous home address, sex, race, nationality, birth date, birth place, religious affiliation, and Social Security number;

b. the current name, address, telephone number and marital status of the biological parents of the child;

c. the name, address, and telephone number of siblings and if in foster care, the name and contact information of their foster parents and caseworkers; and

d. the name, address, and telephone number of siblings and significant relatives or others considered in the case plan.

7. The provider shall maintain the following information in the foster child/youth's record and all information shall be continuously updated:

a. custody order within 30 calendar days of placement;

b. copy of birth certificate or written request for birth certificate to child welfare within seven calendar days of placement;

c. medical, psychological, and psychiatric history and reports;

d. annual physicals and examinations for the child/youth;

e. the dates of contact with the child/youth to include but not limited to providers, guardian, biological family, CASA, medical professionals;

f. initial assessment, service plans, and all subsequent assessments;

g. educational records;

h. copy of DCFS case plans if child/youth is in DCFS custody within seven calendar days of case plan meeting;

i. summary of the child/youth's contacts with caseworker, child placing agency staff, and family members reflecting the quality of the relationships as well as how the child/youth is coping;

j. a record of the child's placements with names of caregivers, addresses, placement and discharge dates;

k. signed placement agreements between the child placing agency and foster parent;

l. documentation of compliance with the service plan;

m. the basis for selection of the home for the specific child/youth; and

n. discharge summary.

F. Foster Home Annual Assessment

1. The annual assessment of the foster home prior to expiration of current certification shall include a summary noting the following:

a. the home's compliance with the required licensing standards;

b. review of the foster parents' positive and negative experiences during the previous 12 months;

c. foster parents willingness to continue to foster;

d. provider feedback regarding the foster parents' care of the children which were placed in the home throughout the year; and

e. foster parents' feedback regarding the child placing agency.

2. Documentation shall include the signature and date of the individual completing the summary.

3. If areas of concern are identified during the foster home annual assessment, the provider with input from the foster parent shall develop a written plan of action prior to recertification. The plan shall include measurable goals and timeframes and shall be signed and dated by the provider and foster parent.

4. Documentation of re-certification shall be filed in the foster parent record.

G. Discharge from Provider Care—Foster Care

1. The provider shall discharge the child only to the person, persons, or agency having legal custody of the child or by court order.

2. The provider shall complete a discharge summary within seven calendar days of the child/youth's discharge and document the following in the child/youth's record:

a. name and address of foster family from which the child was removed;

b. child/youth's date of birth;

c. date of placement and discharge from each foster home certified by the child placing agency from which the child was discharged;

d. the name and address of the person, persons, or agency to whom the child was discharged;

e. the reason for discharge;

f. case plan and service plan goals achieved while in care; and

g. follow-up recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7321. Adoption Services

A. General Requirements

1. All birth parents shall be informed of the statutory requirements of CHC 1107.1 et seq. when considering adoption as a permanent plan. The provider shall advise the parent to seek independent legal counsel. Documentation shall consist of a statement signed and dated by the birth parent and child placing agency representative acknowledging that the biological parent was informed of the statutory requirements of CHC 1107.1 et seq.

2. The provider shall not use coercion, financial or other enticements in securing surrenders from birth parent(s). A surrender shall not be executed any earlier than the third day after the birth of the child per CHC 1122.

3. The provider shall inform the birth parent(s) that a valid surrender for adoption to a child placing agency is final and irrevocable and makes the child placing agency legally responsible for selecting the most appropriate permanent placement for the child. Any previous placement agreements or understandings between the provider and the birth parent(s) are considered preferences which are not legally binding in the absence of a court order. Documentation shall consist of a signed and dated statement by the CPA representative and the birth parent acknowledging the irrevocability of their decision and rights. Documentation shall also include a signed and dated statement that any previous placement agreements or understandings between the provider and the birth parent(s) are considered preferences which are not legally binding in the absence of a court order.

4. The provider shall inform the prospective adoptive parent(s) of the Louisiana Adoption Resource Exchange (LARE), a resource within DCFS of children available for adoption. If the prospective adoptive parent(s) are interested in adoption, the provider shall assist them with making an inquiry on the child to the DCFS adoption unit. Documentation that the prospected adoptive parent(s) were informed about LARE shall include adoptive parent(s) signatures and date.

5. The provider shall have a current Louisiana Adoption Resource Exchange (LARE) photo listing of children available for adoption to show all prospective adoptive families.

6. The provider shall inform the adoptive parents of the DCFS Louisiana Adoption Voluntary Registry which facilitates voluntary contact between adult adoptees, their birth parents, and/or siblings. The provider shall inform the adoptive parents that detailed information is available at dcfs.louisiana.gov. Documentation that the prospective adoptive parents were informed about the reunion registry shall include adoptive parent signature and date.

7. The provider shall inform the birth parents of the DCFS Louisiana Adoption Voluntary Registry which facilitates voluntary contact between adult adoptees, their birth parents and/or siblings. The provider shall inform the birth parents that detailed information is available at dcfs.louisiana.gov. Documentation that the birth parents were informed about the registry shall include birth parent signature and date.

8. Prior to placement, prospective adoptive parents shall be informed (telephone or electronic communication) every 60 days of the status of their application. Documentation shall include the date of notification, name of prospective adoptive parent, and signature of the child placing agency representative making the notification or copy of email sent.

B. Certification of an Adoptive Home

1. The child placing agency shall provide information to prospective adoptive parent(s) regarding the following:

a. the adoption process;

b. legal procedures;

c. the provider's policies and practices;

d. how children and prospective adoptive parents are matched;

e. prospective adoptive parent(s) responsibilities;

f. supervisory pre and post placement visit requirements;

g. process of obtaining a social security number or card for the child;

h. process of obtaining a revised birth certificate after finalization;

i. medical coverage options after finalization;

j. fees and costs to prospective adoptive parents;

k. subsidy availability;

l. home study process;

m. state central registry clearance requirements; and

n. criminal background clearance requirements.

2. Documentation shall consist of a signed and dated statement by the prospective adoptive parent noting discussion of the topics outlined in §7321.B.1.

3. A child shall not be placed in an adoptive placement until the adoptive parents are certified and the home has been approved.

C. Home Study—Adoption Certification

1. In addition to the requirements for a home study noted in §7315.A.10, the provider shall also document and assess the following with regard to prospective adoptive parents:

a. motivation to adopt;

b. attitude toward birth-parent(s) with regard to the reason the child was placed for adoption;

c. understanding and acceptance of the adoptive child's background, heritage, and identity;

d. willingness to allow contact with birth family (parents, siblings, extended family) or others significant in child's life;

e. willingness to discuss adoption and adoption related issues that may arise with the child; and

f. a plan for guardianship of the child in the event of incapacity or death of adoptive parents prior to the child reaching the age of majority.

D. Child Placement for Adoption

1. Prior to adoptive placement, the provider shall establish the availability of a child through:

a. a certified copy of a legally executed voluntary surrender(s) from the birth parent(s):

i. prior to the execution of the surrender and in accordance with CHC 1120, the surrendering parent shall participate in a minimum of two counseling sessions on two separate days with a licensed social worker, licensed psychologist, medical psychologist, licensed psychiatrist, licensed counselor, or a counselor employed by a child placing agency relative to the surrender;

ii. the counselor shall execute an affidavit attesting that the surrendering parent attended a minimum of two sessions and whether the surrendering parent appeared to understand the nature and consequences of his/her intended act. The affidavit of the counselor shall be attached to the act of surrender;

iii. if, in the opinion of the counselor, there is any question concerning the parent's mental capacity to surrender, the basis for these concerns shall be stated in the affidavit. If indicated, the affidavit shall contain a specific recommendation for any further evaluation that may be needed to ascertain the parent's capacity; and

iv. if the surrendering father is of age of majority he may waive the two counseling sessions. In this case, the provider shall execute an affidavit attesting to the father's waiver and that the surrendering father appeared to understand the nature and consequences of his intended act. The affidavit of the counselor or attorney shall be attached to the act of surrender;

b. judgement of abandonment against the birth parent(s);

c. judgement of termination of parental rights against the birth parent(s); or

d. death certificate of birth parent(s).

E. Selection of an Adoptive Home

1. The provider shall select an adoptive family for a child based on the assessment of the child's needs and an assessment of the prospective family's ability to meet those needs.

2. The child shall participate in the placement process and in the decision that placement is appropriate, to the extent that the child's age, maturity, adjustment, family relationships, and the circumstance necessitating placement justify the child's participation.

3. The provider shall assess a child's racial, cultural, ethnic, and religious heritage and preserve them to the greatest extent possible without jeopardizing the child's right to care and a permanent placement.

4. The following factors regarding selection of a family shall be carefully considered:

a. the placement of siblings as a family group unless contraindicated by:

i. the nature of sibling relationships;

ii. the likelihood that placement would be unduly delayed by waiting for a family who will accept all of the children in a sibling group; and

iii. the existence of significant affectionate attachment between a child and foster parent(s) who wishes to adopt only the individual child of the sibling group already placed in the home when an independent assessment indicates that the child's psychological bond to the foster parent(s) is so strong that it is more important to the child than the sibling relationship(s). The independent assessment shall include the foster parent(s) willingness to maintain sibling contact after finalization of the adoption. The assessment shall be conducted by a licensed social worker, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed counselor not affiliated with the agency.

b. the prospective adoptive family's willingness and ability to provide for the medical, educational, and psychological services identified as needed by the child;

c. the family's ability to accept the child's background and his mental, physical, and psychological limitations/strengths;

d. the potential impact of factors such as life style, expectations, culture, and perception of family life on the ability of the family and the child to bond.

5. Birthparent(s) may be considered for permanent placement of the child when:

a. an assessment indicates that this plan is in the best interest of the child;

b. the child and birthparent(s) have the capacity to form an affectionate and healthy parent-child relationship; and

c. the birth parent(s) meets the certification standards as an adoptive parent.

F. Placement Agreement with Adoptive Parent(s)

1. Prior to placing a child with a certified adoptive parent, provider shall obtain a child specific placement agreement signed and dated by adoptive parent and child placing agency representative to include the following:

a. acknowledgement that the child is legally available for adoption;

b. the child is being placed with the adoptive parent(s) for the purpose of adoption;

c. the child remains in the custody of the provider until the adoption is finalized;

d. the adoptive family assumes financial responsibility for the child or in accordance with special

provisions for financial responsibility included in the agreement;

e. the number of supervisory visits to assess the progress of the placement prior to finalization;

f. agreement to finalize the adoption in accordance with CHC 1211 and 1214;

g. agreement to cooperate in making a planned move for the child if removal is necessary, except in emergency circumstances;

h. reporting to the provider any changes in circumstances having an effect on the child or the adoption;

i. acknowledgement that the family will not take the child out-of-state or authorize any special medical care or treatment for the child without the consent of the child placing agency; and

j. acknowledgement that the child placing agency shall provide supportive services to the family to promote healthy parent-child adjustment and bonding.

G. Right to Contact with Family and Collateral—Adoption

1. A child/youth has the right to consult and visit with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends prior to surrender.

2. A child/youth has the right to telephone communication. The provider shall allow a child/youth to receive and place telephone calls in private prior to surrender. There shall be no restrictions on communication between a child/youth and the child/youth's legal counsel.

3. A child/youth has the right to send and receive mail and electronic mail. The provider shall allow children/youth to receive and send all mail unopened, uncensored, and unread by staff prior to surrender. Correspondence from a child/youth's legal counsel shall not be opened, read, or otherwise interfered with for any reason.

4. A child/youth has the right to consult freely and privately with legal counsel.

5. A child/youth has the right to communicate freely and privately with state and local regulatory officials.

H. Supervision of the Child in an Adoptive Placement Prior to Finalization

1. The provider placing a child in an adoptive placement shall retain custody and remain responsible for the child until a final decree has been granted.

2. Provider shall conduct an initial in home face-to-face supervisory visit with the child and one adoptive parent within seven calendar days of the child's placement. The next home face-to-face supervisory visit shall occur the following month.

3. After the visits noted in §7321.H.2, provider shall conduct an in home supervisory visit with one adoptive parent at least once every other month. Provider shall observe the infant in the home during the monthly visit.

4. Provider shall conduct a private supervisory visit with child age one year and above; every other month with at least a segment of the visit occurring in the adoptive home.

5. Provider shall conduct an in home supervisory visit with both adoptive parents and child within 30 days prior to the final decree.

6. Documentation of the contact noted in §7321.H.1-5 shall include:

a. date and time of visit;

b. individuals present;

c. location of visit;

d. duration of visit;

e. assessment of adjustment of the child and adoptive parent;

f. assessment of attachment and bonding;

g. assessment of health of child;

h. changes since last contact;

i. summary of visit; and

j. signature of person conducting supervisory visit or phone contact.

7. At least three of the supervisory visits (including the visit prior to final decree) prior to finalization shall include both adoptive parents and all other members of the household.

8. Observations made during the visits shall be used in making recommendations for finalization of the adoption. If problems are identified, the provider shall assist the family directly and/or refer the family to a resource to address the concerns.

9. Child placing agency staff shall be available to provide the child and adoptive parent(s) assistance, consultation, and emotional support with situations and problems encountered in permanent placement through finalization.

10. The child placing agency shall provide 24 hour crisis intervention to the adoptive family through finalization.

I. Child Case Record—Adoption Surrender

1. The provider shall maintain a record from the time of the birth parent's application for the child's placement through adoption finalization and termination of CPA services provided to the family.

2. All information in the child's record shall be continuously updated.

3. The child placing agency shall obtain a signed copy of the act of surrender committing the child to the child placing agency for the purpose of adoption within one calendar day of the surrender.

4. The child placing agency shall obtain a signed copy of the court order approving the surrender within 45 calendar days of the act of surrender.

5. The child placing agency shall document the child's name, sex, race, nationality, birth date, and birth place within 24 hours of placement.

6. The child's case record shall contain the following information within three calendar days of placement:

a. information about the child and the child's family;

b. initial medical assessments and evaluations;

c. the basis for selection of the home for the specific child;

d. the current name, address, telephone number, and marital status of the birth parent(s);

e. a narrative or summary of the services provided to the birth parent and perspective adoptive parent(s);

f. information gathered during the intake process;

g. certificate of live birth;

h. a copy of the required home study and all supporting documents; and

i. name of prospective adoptive parent(s) and date of placement.

7. All court documents and medical records shall be filed in the child's record throughout the adoption process through finalization.

8. The provider shall obtain information from the birth parent in accordance with CHC 1125 for the record.

9. If either birth or legal parent is unavailable, unwilling, or unable to assist with the completion of necessary information, the provider shall document information, to the extent possible, from the existing case record.

10. Within 30 calendar days of finalization, the case record shall be complete and contain all documentation to include court documents and medical records.

J. Updating Adoptive Home Study

1. If more than a year has lapsed since the family was certified as an adoptive home and there has not been a placement, the original homestudy shall be reviewed and updated prior to placement of a child in the home including new federal background checks and state central registry clearances. Physical examinations shall be updated if not current as referenced in §7315.E.4. Update shall include any changes from the original homestudy or documentation to reflect that no significant changes were reported or observed. Documentation shall include date, signature of person updating the homestudy, and signature of a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, licensed marriage and family therapist approving homestudy update. Federal background checks and state central registry clearances shall be dated within 12 months prior to placement of a child.

2. For families who have had an adoptive placement finalized within the last 12 months and wish to apply for adoption of another child, the original home study shall be reviewed and updated prior to placement of child in the home. Update shall include any changes from the original homestudy or documentation to reflect that no significant changes reported or observed. Documentation shall include date, signatures of person updating the homestudy, and signature of a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist approving homestudy update. Federal background checks and state central registry clearances shall be dated within 12 months prior to placement of the second child.

K. Adoption Disruption

1. When it has been identified that there is a potential adoption disruption, the provider shall assist the adoptive family and child to plan for the removal of the child in a manner least detrimental to the child. Except with emergency removal, the provider shall hold a planning conference to review the situation prior to removal. The planning conference shall be attended by the adoptive parents, the child (if and when in the best interest of the child), and provider. The planning conference shall include the following:

a. concerns with the placement;

b. resources used and resources which may preserve placement;

c. pros and cons of continuing the placement;

d. decision whether to disrupt the placement or maintain the placement;

e. when maintaining the placement is the plan, identifying additional services to be utilized; and

f. discussion of placement alternatives for the child and how the removal will occur if the placement is unable to be preserved.

2. A summary of the conference shall be documented by the child placing agency and shall be signed and dated by all attendees.

3. The child placing agency shall assist the family in providing the child the reason for the disruption, using age appropriate language. When this is not possible, the provider shall inform the child.

4. The child placing agency shall provide services to families who suffer an adoption disruption to deal with their grief and decide if another adoptive placement is an appropriate plan. Services provided shall be documented in the adoptive parents' record and signed and dated by a child placing agency representative.

L. Domestic Adoptions

1. In domestic adoptions, DCFS may request information from the provider necessary to complete the confidential report after the petition has been filed with the court. The provider shall submit the requested information to the department by the date specified in the notification correspondence.

2. If the child was born in Louisiana, the provider shall submit the required fee, and a completed Certificate of Live Birth form PHS 19, to the department within 21 calendar days of the adoption finalization for a revised birth certificate.

3. For a child born in a state other than Louisiana, the child placing agency shall submit a request to the vital records registry of that state in order to reissue the child's birth certificate. A certified copy of the reissued birth certificate shall be given to the adoptive parent and a copy maintained in the child's record.

M. Intercountry Adoptions

1. The provider shall maintain a copy of the home study in the child or family's record.

2. Prior to the initiation of an intercountry adoption, the petitioners shall obtain a certified copy of the child's birth certificate, and, if the certificate is not in English, a certified translation of the certificate, shall be attached to the petition for adoption. If a certified copy of the birth certificate and certified translation are not available, the court may make findings on the date, place of birth, and parentage of the adopted person in accordance with the provisions of R.S. 40:79(C)(2).

3. For adoptions finalized in the United States, the provider shall file a petition for an intercountry adoption and maintain a copy in the child's record.

4. The provider shall maintain a copy of the court judgement recognizing the foreign adoption in the child's record prior to ending post placement supervision with the family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7323. Transitional Placing Program

A. General Requirements

1. The provider shall have a written program description describing:

a. the overall philosophy of independent living;

b. the long-term and short-term goals for youth; and

c. admission criteria.

2. The child placing agency shall have a written list of rules to include expected behaviors for youth and documentation that the rules were discussed with and a copy received by youth. Documentation shall include a copy of the rules signed and dated by the youth.

3. The child placing agency shall advise youth about the youth advisory board within seven calendar days of admission. Documentation shall include signature of staff advising youth and youth's signature and date.

4. A written description of services provided or arranged shall be included in policy noting whether the services are provided by the child placing agency or arranged with an outside source.

a. Services shall include, but are not limited to the following:

i. assistance with obtaining a high school diploma, preparation for the HSET or higher education, job readiness, job search assistance, job placement, vocational assessment and training, tutoring, career planning;

ii. counseling to promote self-esteem and self confidence;

iii. transportation to medical appointments, employment, educational facility; and

iv. assistance with providing or arranging additional services noted in youth's service or case plan.

5. A written description of training provided to youth shall be included in policy noting whether the training is provided by the child placing agency or arranged with an outside source.

a. Training in the following skill areas shall include, but are not limited to:

i. basic independent living skills;

ii. money management;

iii. credit counseling,

iv. home management skills (housekeeping, etc.);

v. identification of community resources;

vi. time management;

vii. communication skills;

viii. use of transportation;

ix. self awareness of physical and mental health needs;

x. problem solving/decision making;

xi. sex education;

xii. menu planning and nutrition;

xiii. meal preparation;

xiv. substance abuse education;

xv. medication management for prescription and non-prescription drugs;

xvi. preparation for college entrance exams;

xvii. personal hygiene;

xviii. childcare;

xix. de-escalation techniques used to defuse potentially dangerous situations such as physical/verbal confrontations between youth, provider staff, and peers;

xx. development of interpersonal and social skills;

xxi. preparation for transition to independence and termination of services;

xxii. cooperative living with other housemates or neighbors;

xxiii. basic maintenance, simple repairs, and when to call the landlord/provider; and

xxiv. basic first aid.

6. Training shall be tailored to youth's current level of functioning with additional training introduced as a youth progresses, achieves success in the minimum skills, and articulates a desire to learn more advanced skills.

7. A written description of training provided to youth transitioning from the program shall be included in policy and shall include, but is not limited to the following:

a. developing and following a budget;

b. identifying safe and affordable housing;

c. negotiating a lease;

d. understanding the terms of a lease or housing contract;

e. understanding landlord/tenant rights and responsibilities,

f. searching for a job; and

g. retaining a job.

B. Reasonable and Prudent Parent Standard—Transitional Placing

1. The provider shall designate in writing at least one staff person per shift as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of youth in foster care in the transitional placing program in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be available to youth at all times. Licensing shall be notified in writing within five calendar days if there is a change in designated representatives.

2. The authorized representative shall utilize the reasonable and prudent parent standard when making decisions involving the participation of youth in age or developmentally appropriate activities.

3. The authorized representative shall receive training or training materials regarding the use of the reasonable and prudent parent standard within three calendar days of being designated as the authorized representative. Documentation of the reasonable and prudent parent training including signature and date of staff shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by the DCFS, shall include, but are not limited to the following topic areas:

a. reasonable and prudent parent standard;

b. age and/or developmentally appropriate activities or items;

c. role of the provider and of DCFS; and

d. allowance for normalcy of the youth while respecting the parent's residual rights.

C. Independent Living Unit Requirements—Transitional Placing

1. Only youth in the transitional placing program shall reside in the living unit.

2. Each youth shall have his/her own bed located in a designated bedroom. With the exception of a studio apartment housing one youth, common areas shall not be used as a bedroom; however if youth chooses to use a common area as a bedroom, documentation shall include a signed and dated statement by youth indicating such. In addition, written approval is required by the OSFM allowing a common area to be used as a bedroom.

3. Each youth's mattress shall be at a minimum a standard twin size. The mattress shall be clean, comfortable, and non-toxic. Upon admission each youth should be provided a new mattress or water proof mattress cover.

4. The living unit shall have an operable air conditioning and heating system.

5. The child placing agency shall provide each youth with a chest, dresser, or other adequate storage space for storing clothing and personal belongings in the youth's bedroom, and a designated space for hanging clothes in or near the youth's bedroom.

6. The child placing agency shall provide youth certain articles and supplies for furnishing the living unit. The articles and supplies may be new or used; however, they shall be in good condition. The articles and supplies shall include, but are not limited to:

a. bed linens,
b. furnished area for dining,
c. living or sitting room furniture,
d. lighting in each room,
e. microwave,
f. stove,
g. oven,
h. refrigerator,
i. dishes, cups, and glasses,
j. eating and cooking utensils,
k. vacuum cleaner, if living unit is carpeted
l. towels, and
m. window coverings.

7. Youth shall have 24 hour access to a cellphone or onsite child placing agency office phone for communicating with emergency dispatch services.

8. At the time of placement, the child placing agency shall provide youth with basic household and hygiene supplies such as detergent, cleaning supplies, broom, mop, soap, paper towels, toothpaste, shampoo, deodorant, etc. The child placing agency shall ensure that youth are continually supplied with basic household and hygiene supplies.

9. First aid supplies shall be provided by the child placing agency and maintained in each transitional placing living unit. Supplies shall include, but not limited to the following:

a. first aid manual;
b. sterile first aid dressings;
c. bandages, adhesive strips (Band-Aids, Curads, etc.) or roller bandages;
d. adhesive tape;
e. scissors;
f. tweezers;
g. thermometer;
h. antiseptic solution;
i. antibiotic cream/ointment; and
j. over the counter medications including pain reliever/fever reducer and gastrointestinal medication.

D. Placement of Youth in Transitional Placing program

1. If referred through an agency, the child placing agency shall have signed and dated documentation from the referring agency that the youth is appropriate for independent living placement and meets the following criteria prior to placement in the program:

a. youth has the ability to maintain his own household semi-independently with supports in cleaning, meal preparation, basic household maintenance, and homework completion;
b. youth has the maturity level appropriate to living semi-independently; and
c. youth has not been suicidal, been homicidal, or exhibited any psychotic behaviors in the past six months.

4. A signed and dated agreement between the child placing agency and referring agency shall be maintained in youth's file for all youth under the age of 18 and for those over 18 years of age who are in state's custody.

5. Upon attaining their eighteenth birthday, a youth shall express their willingness to remain in the TP program and intent to abide by CPA policies. A signed and dated agreement attesting to such between the child placing agency and youth shall be maintained in the youth's file.

6. The provider shall ensure youth who have been committed to the Department of Corrections, Office of Juvenile Justice for the commission of a crime live in separate living units from youth not committed to the Department of Corrections, Office of Juvenile Justice.

E. Service Plan—Transitional Placing

1. The provider shall develop a written service plan based upon the individual needs of the youth within 15 calendar days of placement.

2. Youth shall be involved in the development of the service plan.

3. The service plan shall address the following:

a. supervision and contact with youth required by the child placing agency;
b. housing;
c. money management;
d. emergency preparedness and evacuation procedures;
e. educational goals;
f. job training goals;
g. objectives and services for each goal;
h. person responsible for each action within each goal; and
i. specific timeframes for achieving each goal.

4. The service plan meeting shall include the youth and legal guardian if youth is under the age of 18 or in custody of the state or the youth and provider if youth is 18 years of age or older. Documentation of the service plan meeting shall include the date, names of individuals invited, and signatures of attendees. If the legal guardian is required to attend and unable, the child placing agency shall obtain legal guardian's signature or document that the service plan was submitted to the legal guardian within seven calendar days of the meeting.

5. Documentation of compliance with youth's service plan shall be on-site and available for review.

6. Service plan shall be reviewed with the youth on a quarterly basis or more frequently as the youth's needs or circumstances dictate. Documentation of the review shall include the date and signature of the provider and youth.

7. Provider shall prepare a transition plan for youth, prior to a planned discharge from the program to facilitate a successful integration within the community. The plan shall include resources and recommendations and shall be discussed with the youth. Documentation shall include a copy of the plan, signed and dated by provider and youth.

F. Supervision of Youth—Transitional Placing

1. The provider shall have a written plan for overseeing placement to ensure the youth's well-being.

2. Provider staff shall communicate with youth on a daily basis preferably by a telephone call; however, text messaging is acceptable.

3. All contacts with the youth via telephone and in person with the youth shall be documented to include date, time, method of contact, location, brief summary of contact, and signature of staff contacting youth.

4. Provider staff shall be accessible via phone or in person to youth at all times.

5. Within the first 30 calendar days, the provider shall have at least three weekly face-to-face visits with the youth with at least one of the weekly visits occurring in the youth's residence. Thereafter, two face-to-face weekly visits with the youth with at least one of the weekly visits occurring in the youth's residence.

6. If the provider has a reasonable cause to believe that the youth's living situation presents risks to the youth's health or safety, the youth shall be moved immediately to another living unit until the risk is no longer present.

7. Provider shall ensure that the youth's living environment is maintained in a clean and safe manner.

8. Provider shall ensure that the youth are receiving medical care.

9. One to one supervision of youth is allowed in emergency situations only to protect the youth and shall not exceed 48 hours.

G. Money Management—Transitional Placing

1. The provider shall have a policy regarding the management of youth's money.

2. A provider shall only manage money for youth when such management is mandated by the youth's service or case plan.

3. Providers who manage youth's money shall maintain a current balance sheet in the youth's file containing all financial transactions including date of transaction, amount of transaction, and the signature of staff and the youth for every transaction. When requested by youth, a balance sheet shall be provided to youth within 24 hours of the request.

H. Nutrition—Transitional Placing

1. The child placing agency shall ensure adequate food is available to youth on a daily basis.

2. When food is purchased, provided, or prepared by the child placing agency, the child placing agency shall ensure that meals include the basic four food groups and each youth's nutritional needs are met.

3. The child placing agency shall provide assistance with meal preparation when the youth's work and/or school responsibilities do not allow adequate time for food preparation.

4. When meals are provided by the child placing agency, written menus shall be maintained for one year.

5. Receipts of food purchased by the provider shall be maintained for one year.

I. Emergency Preparedness—Transitional Placing

1. The provider, in consultation with appropriate state or local authorities, shall establish and follow a written multi-hazard emergency and evacuation plan to protect youth in the event of any emergency.

2. The written plan of emergency procedures shall provide for the evacuation of youth to a safe area.

3. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations to alternate locations within the city and evacuations outside of the city.

4. Within seven calendar days of placement, provider shall instruct youth in how to contact police, fire, and other emergency service personnel, how to prevent fire and accidents, how to respond to fires and other emergencies, and how to use firefighting and other emergency equipment. Documentation shall include a summary of information discussed, youth's signature, and date.

5. The emergency plan shall be reviewed with youth within seven calendar days of placement, any time changes occur, and at least annually. Documentation evidencing that the plan has been reviewed with and agreed upon by youth shall include youth signature and date.

6. Provider shall ensure youth have access to medication and other necessary supplies or equipment during an emergency situation.

7. Provider's plan shall include a system to account for all youth whether sheltering in place, locking down, or evacuating to a pre-determined relocation site.

8. Provider's plan shall include an individualized emergency plan for each youth with special needs which shall include medical information, medical contact information, and additional supplies/equipment needed.

9. Provider's plan shall include emergency contact information for staff accompanying youth in the event evacuation from the child placing agency is necessary.

10. At a minimum, the plan shall be reviewed annually by the program director for accuracy and updated as changes occur. Documentation of review by the program director shall consist of the program director's signature and date.

11. The emergency and evacuation plan shall be submitted to the Licensing Section at least annually, any time changes are made, and upon request by the licensing section.

J. Restitution—Transitional Placing

1. Monetary restitution for damages shall only occur when there is clear evidence of the youth's responsibility for the damages and the child placing agency director approves the restitution.

2. The youth and his/her legal guardian(s) shall be notified in writing within 24 hours of the incident which results in the claim for restitution and shall be provided with specific details of the damages, to include how, when, and

where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be given with an exact figure provided within 30 days.

3. After notification of the claim for restitution, the youth and his/her legal guardian(s) shall be given seven calendar days to respond in writing to any claim for damages.

4. In the event responsibility for the damages is not agreed upon by the provider and legal guardian, the provider shall not withhold money from the youth's account for restitution.

5. When the youth is required to pay restitution, the payment plan shall be discussed with the youth and signed by the youth, legal guardian, and provider staff.

6. If the provider receives reimbursement for damages either through insurance or other sources, the youth shall not be responsible for restitution.

K. Youth Advisory Board—Transitional Placing

1. The provider shall develop written polices for a Youth Advisory Board. The Youth Advisory Board shall provide feedback to the child placing agency staff relative to program procedures, practices, and services.

2. Prior to a youth advisory board meeting being convened, provider shall advise youth on how to conduct meetings, set agendas, vote, and suggest ways to provide feedback to provider regarding concerns identified in meetings. Documentation shall include the date youth are advised, individuals in attendance, signature of staff advising youth, and a summary of information provided. If the person designated by the youth advisory board to conduct the advisory board meeting changes, the child placing agency shall advise the new appointed youth on how to conduct meetings, set agendas, vote, and suggest ways to provide feedback to provider regarding concerns identified in meetings.

3. The Youth Advisory Board shall consist only of youth representatives receiving services from the child placing agency.

4. All youth receiving services shall be eligible to participate.

5. Provider shall not be present at youth board meetings, unless invited to attend by youth; however, staff shall be available in the event the youth request guidance.

6. The youth advisory board meeting time and date shall be scheduled at least a month in advance to allow participation by interested youth.

7. The Youth Advisory Board shall meet at least monthly. Documentation shall include the date of meeting and minutes of the meeting which includes individuals present, topics discussed, and concerns and suggestions referred to the attention of the child placing agency.

8. Youth shall designate a representative to report concerns to the child placing agency following the meeting. Documentation shall include the date concerns were reported to the provider, the name of the staff person to whom the concerns and suggestions were discussed, and the name of youth reporting concerns.

9. The child placing agency shall maintain documentation noting the date Youth Advisory Board representative reported concerns and suggestions, the issues discussed, and the child placing agency's response.

10. Provider shall advise the youth advisory board representative of the agency's response in writing within seven calendar days of the initial report.

L. Discharge Process—Transitional Placing

1. Provider shall have a written discharge policy detailing the reasons a youth may be discharged from the program.

2. For youth under the age of majority, the provider shall discharge the youth only to the legal guardian or by court order.

3. The discharge summary shall identify specific resources in the community with referrals and recommendations for aftercare services with a cooperating provider, if needed.

4. Provider shall notify the legal guardian at least fourteen calendar days prior to the planned discharge of a youth.

5. A provider shall compile a complete written discharge summary within three calendar days of the youth's discharge. The summary shall be included in the youth's record and when discharged to another provider, this summary shall accompany the youth.

6. The discharge summary shall include:

a. services provided while in the program;

b. growth and accomplishments while in the program;

c. continuing and unmet needs which remain to be met;

d. identified resources and referrals to assist youth in meeting their needs in the community;

e. date of entry and exit from the program;

f. the name and address of the person, persons, or agency to whom the child was discharged;

g. the reason for discharge;

h. case plan goals, service plan goals, and other goals achieved while in care;

i. name and address of any family members or others significant to youth; and

j. signature and date of child placing agency staff completing summary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by 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

All interested persons may submit written comments through January 29, 2019, to Angie Badeaux, Licensing

Program Director, Department of Children and Family Services, P. O. Box 3078, Baton Rouge, LA, 70821.

Public Hearing

A public hearing on the proposed Rule will be held on January 29, 2019, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 10:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For Assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Child Placing Agencies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to increase expenditures for the Department of Children and Family Services (DCFS) by approximately $35,145 {$22,844 Federal, $12,301 State} in FY 19 for the publication of the proposed rule.

The current child placing agency regulation sections 7301-7317 are being repealed in their entirety and replaced with sections 7301, 7303, 7305, 7307, 7309, 7311, 7313, 7315, 7317, 7319, 7321, and 7323. According to R.S. 46:1407(D), a comprehensive review of licensing standards is mandated for every three years. As a result of the review, the department proposes to repeal and replace LAC 67:V, Subpart 8, Chapter 73, Child Placing Agencies – General Provisions.

The rule change clarifies that the purpose of Chapter 73 is to establish statewide minimum standards for the licensing of child placement agencies, specifies statutes that authorize DCFS to establish standards for the licensing of child placement agencies, and updates and clarifies definitions of terminology that are found throughout Chapter 73. The rule change also (1) clarifies the initial licensing application process, (2) specifies that owners, staff, volunteers, and contractors that have contact with children must apply for clearance through the State Central Registry, (3) adds that a corrective action plan must be submitted by child placement agencies to DCFS for all deficiencies noted by licensing staff, (4) updates the specific policies and procedures that must be included in a child placement agency's policy manual, (5) provides that if an agency closes, then its adoption records must be provided to DCFS in electronic format, (6) updates the minimum professional and educational qualifications for a child placement agency program director, (7) adds training topics that must be covered in new staff orientations at child placement agencies, (8) specifies which practices shall be prohibited by foster/adoptive parents and staff, (9) specifies the actions that shall be taken when a child placement agency is conducting a home study or annual assessment at a foster/adoptive home, (10) specifies the documents that shall be included in the record of foster/adoptive parents, (11) provides that, except under certain circumstances, that a security camera cannot be situated in a child's bedroom, (12) specifies skills that must be taught to transitional youth, and (13) specifies what should be included in a transitional placement program's emergency preparedness plan.

Finally, the amendments incorporate the requirements of Public Law 115-123. In part, Public Law 115-123 requires that at least one prospective foster/adoptive parent is functionally literate, foster/adoptive homes with pools must meet minimum safety standards, foster parents and guests shall not smoke in the presence of foster children, a child's bedroom must be equipped with a carbon monoxide detector, and dangerous weapons in foster/adoptive homes must be locked and inaccessible to children.

It is not anticipated DFCS will incur any additional cost associated with regulating child placement agencies for compliance with updated licensing standards.

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. It does not change existing fees or impose additional fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be implementation costs to child placement agencies and foster/adoptive parents. However, the extent of these costs is indeterminable.

Implementation of this proposed rule may have a cost to child placement agencies as a result of additional training requirements for new employees and transitional youth. Currently, training is provided by the agencies in house. However, if there is no one on staff with the prerequisite knowledge to provide the additional training, the agency may need to outsource some of the training. For example, LGBTQ awareness is a new topic that must be covered at new employee orientation. If no one at the agency is qualified to train on this topic, then there may be a cost associated with outsourcing LGBTQ awareness training.

Additionally, implementation of this proposed rule may have a cost to foster/adoptive parents in order to be in compliance with additional safety standards. For example, if a child's room does not currently have a carbon monoxide detector, then the foster/adoptive parent will need to supply one.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no known effect on competition and employment.

Terri Ricks	Evan Brasseaux
Deputy Secretary	Staff Director
1812#043	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Alternative Education
(LAC 28:XI.605, and Chapter 35; CXV.Chapter 29; and CXLIX.101, 301, 501, 701, 901, 903, 1101, 1301, 1501, 1701, 1703, and Chapters 19 and 21)

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, Bulletin 131—Alternative Education Schools/Programs Standards,* and *Bulletin 741—Louisiana Handbook for School Administrators.*

The proposed amendments establish a new rating formula for alternative education (AE) schools that is more closely aligned to the unique mission of serving students referred to AE for long-term services. For AE elementary and middle schools, the proposed formula is based 100 percent on state assessment progress, and for AE high schools, the formula is based on 25 percent of each of the following: state assessment progress; current year core credit accumulation; second-year dropout/credit accumulation: and credential attainment. Additionally, the proposed amendments establish new expectations that more closely align the alternative education approval process to expectations set forth in state law, which include transitional planning and support, student learning and behavior plans, interventions, and staff support and engagement. LEAs will transition to the new approval process over a three-year period between 2019-2022. Finally, the proposed amendments repeal various Sections pertaining to alternative education schools and programs.

Title 28
EDUCATION
Part XI. Accountability/Testing
Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 6. Inclusion in Accountability
§605. Inclusion of Schools
[Formerly §519]

A. All kindergarten through eighth grade schools must have a minimum of 120 testing units, in any combination, of LEAP, LAA 1, or LEAP connect assessments.

B. All ninth through twelfth grade and combination schools must have:

1. a minimum of 120 units in any combination of graduation cohort membership; and

2. third through eighth grade and high school LEAP 2025, LAA 1, EOC, LEAP connect, or ACT assessments.

C. - D.2. …

E. The number of schools in an LEA with fewer than 120 units is expected to remain stable over time. In the event that the number of schools with fewer than 120 units increases from the prior school year, the local superintendent of that LEA will provide a written justification to the state superintendent of education and BESE. BESE may choose to award a school performance score for any school newly identified with under 120 total units beginning with the 2018-2019 school year (fall 2019 release).

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 31:1512 (July 2005), LR 32:1022 (June 2006), LR 34:431 (March 2008), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 40:2507 (December 2014), LR 41:1263 (July 2015), LR 44:453 (March 2018), LR 45:

Chapter 35. Inclusion of Alternative Education Schools and Students in Accountability
§3501. Alternative Education
[Formerly LAC 28:LXXXIII.3501]

A. Districts must provide an alternative education placement for students who are expelled or who have been suspended for more than 10 consecutive schools days. Districts must either operate an alternative education program or school (direct-run or charter), or enter into an agreement with an education service provider to run a program or school.

B. Alternative education schools and programs must be approved by BESE. Classifications must be submitted annually to the LDE no later than March 15 and cannot be changed until the following year.

C. Alternative education school and program accountability:

1. addresses student behavior, dropout prevention, dropout recovery, and/or credit recovery through alternative educational placements;

2. serve students self-selecting due to extenuating personal circumstances; and3.does not exists only for students who are academically advanced, gifted, talented, or pursuing specific areas of study (arts, engineering, medical, technical, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:10.1, 17:416, and 17:416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:472 (March 2013), amended LR 45:

§3503. Alternative Education Schools
[Formerly LAC 28:LXXXIII.3503]

A. For school accountability, alternative education schools:

1. enroll some or all students for 45 or more days; and

2. receive BESE approval for the current school year.

B. - C.1. …

2. Alternative education schools with sufficient data will be evaluated for subgroup performance based on the formulas in Subsection D of this Section.

3. …

D. School Performance Scores (SPS). Starting with the 2018-2019 academic year, all alternative education schools l will receive a school performance score and school letter grade based on the following formulas in this Subsection.

1. School performance scores for kindergarten through eighth grade alternative education schools will include a progress index and credit accumulation index. An interests and opportunities indicator will be included in school performance scores no later than the 2019-2020 school year (2020 SPS).

K-8 Alternative School Performance Score Indices and Weights			
Index	**Grades**	**Beginning in 2018-2019**	**No Later than 2019-2020**
Progress Index*	Grades K-8	90 percent	85 percent
Core Academic Credit Accumulation Index	Grades 6-8	10 percent	10 percent
Interests and Opportunities	Grades K-8	N/A	5 percent

*Includes English Language Proficiency progress

2. School performance scores for alternative education schools with twelfth grade will include a progress index and indicators outlined in the following table. The interests and opportunities indicator will be included in school performance scores no later than 2019-2020 school year (2020 SPS).

High School Performance Score Indices and Weights			
Index	**Grades**	**Beginning in 2018-2019**	**No Later than 2019-2020**
Progress Index*	Grades 9-12	25 percent	25 percent

High School Performance Score Indices and Weights			
Index	**Grades**	**Beginning in 2018-2019**	**No Later than 2019-2020**
Core Academic Credit Accumulation Index	Grades 9-12	25 percent	25 percent
Dropout/Credit Accumulation Index	Grades 9-11	25 percent	25 percent
Credential Attainment Index	Grade 12	25 percent	20 percent
Interests and Opportunities	Grades 9-12	NA	5 percent

*Includes English Language Proficiency progress

3. School performance scores for combination alternative education schools with a grade configuration that includes a combination kindergarten through eighth grade and ninth through twelfth Grade, will receive a score from a weighted average of the SPS in accordance with LAC 28:XI.301.C.

4. For schools with configurations that include ninth through eleventh grade, but do not have a twelfth grade, the school performance score will consist of the indices available.

5. For alternative school performance score calculations, the progress index will be calculated in the same manner as defined in Chapter 5 and will include English language proficiency progress as defined in Chapter 4.

6. The core academic credit accumulation index measures credits that count towards a diploma in English language arts, math, science, and social studies earned at the alternative school.

a. For measuring the core academic credit accumulation index only, students enrolled in an alternative education school on or before:

i. October 1 and for 45 total days will be included in the calculation of the first semester, even if the student is not enrolled in the school on February 1 of the same school year. In some circumstances, such students may also be included in the accountability calculations for another school; or

ii. February 1 and for 45 total days will be included in the calculation of the second semester, even if the student is not enrolled in the school or LEA on October 1 of the same school year.

b. Schools earn points based on the core academic credits earned in each semester.

c. Students who are considered dropouts will be included in the calculation for the semester of drop out and earn 0 points.

Number of Core Academic Credits (One Semester)	Index Point Award
3 or more	150
2.5	125
2	100
1.5	75
1	50
0.5	25
0	0
Dropout	0

7. The dropout/credit accumulation index measures Carnegie units earned in the school year following enrollment at an alternative school for at least one semester.

a. In order for students to be included in the calculations, the student must have been:

i. enrolled for at least one semester during the last year of record at the alternative school; and

ii. considered "full academic year" during the current school year.

b. Students in twelfth grade in the prior year and students who exited with a diploma or *HiSET* are excluded from the dropout/credit accumulation calculation.

c. Points will be allocated according to the following table.

Number of Carnegie Units	Index Point Award
7 or more	150
6.5	125
6	100
5.5	75
5	50
4.5	25
4 or less	0
Dropout	0

8. The credential attainment index measures the graduation outcomes for students in twelfth grade.

a. To be included in the credential attainment index calculation, a student must be in twelfth grade at the start of the current school year and meet full academic year for the current year at the alternative education school.

b. Students in eleventh grade or below who exit the alternative education school with a diploma and/or credential based on the table above will be included in both the numerator and denominator.

c. Points will be assigned for each student according to the following table.

Student Results	Points
High School Diploma plus Associate's Degree	160
High School Diploma plus: (a).(i). AP score of 3 or higher; (ii). IB score of 4 or higher; or (iii). CLEP score of 50 or higher; OR (b). Advanced statewide Jump Start credential *Students achieving both (a) and (b) will generate 160 points.	150
High School Diploma plus: (a). At least one passing course grade for TOPS core curriculum credit of the following type: (i). AP**; (ii). college credit; (iii). dual enrollment; or (iv). IB** OR (b). Basic statewide Jump Start credential *Students achieving both (a) and (b) will generate 115 points. **Students must take the AP/IB exam and pass the course to earn 110 points.	110
High School Diploma (includes Career Diploma student with a regional Jump Start credential)	100
HiSET plus Jump Start credential	40
HiSET	25
Non-graduate without *HiSET*	0

d. Students counted in the graduation cohort for the alternative education school will continue to be included in the school system cohort, not the sending school.

9. The grading scale for alternative education schools will be the same as the scale for all schools as defined in §305 of this Part.

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 29:2753 (December 2003), amended 31:423 (February 2005), LR 34:868 (May 2008), LR 35:1472 (August 2009), LR 37:2119 (July 2011), LR 37:3202 (November 2011), LR 38:1213 (May 2012), LR 39:472 (March 2013), LR 40:2240 (November 2014), LR 45:

§3505. Alternative Education Program Accountability [Formerly LAC 28:LXXXIII.3505]

A. Alternative education programs are approved by BESE for the current school year.

1. - 2. Repealed.

B. Scores for students attending alternative education programs will be included at the sending school at which the student is enrolled.

1. …

C. Repealed.

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 39:472 (March 2013), amended LR 40:2241 (November 2014), LR 45:

§3507. District Accountability for Students Served by Alternative Education Schools and Programs

A. The LDE will annually publish a report on district outcomes for students served by alternative education schools and programs.

B. All alternative education programs will receive a performance report that includes, but is not limited to:

1. data pertaining to academic progress;
2. credit accumulation;
3. completion; and
4. behavior modification.

C. All school systems will receive a report including performance on the alternative education school accountability measures and may include, but is not limited to:

1. recidivism rates (students suspended or expelled multiple times in the same school year);
2. re-engagement rate of students who previously dropped out of school;
3. five- and six-year graduation rates;
4. law enforcement referral rates; and
5. number and percent of students attending alternative schools and programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:10.1, and 17:100.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 29. Alternative Schools and Programs

§2901. Philosophy and Need for Alternative Schools/Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5 and 17:416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 39:2226 (August 2013), repealed LR 45:

§2903. Approval for Alternative Schools or Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2318 (November 2009), LR 37:2128 (July 2011), LR 38:1583 (July 2012), LR 39:2226 (August 2013), repealed LR 45:

§2905. Evaluation of Alternative Schools/Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2319 (November 2009), LR 39:2226 (August 2013), LR 40:2241 (November 2014), repealed LR 45:

§2909. Earning of Carnegie Units

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:400.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005), amended LR 39:2227 (August 2013), repealed LR 45:

Part CXLIX. Bulletin 131—Alternative Education Schools/Programs Standards

Chapter 1. General Provisions

§101. Mission and Purpose

A. Exemplary alternative education develops a guiding mission and purpose that drives the overall operation of the alternative education site. All stakeholders share in developing, implementing, directing and maintaining the mission and purpose. The mission and purpose include the identification of the target student population, reasons that a student is transitioned to the alternative site, and identified outcomes for students to achieve while at the alternative education site. Each alternative school or program will be organized and staffed to support the identified mission and ensure successful student outcomes.

B. Any student suspended or expelled from school for more than 10 school days will remain under the supervision of the governing authority of the city, parish, or other local public school system taking such action using alternative education programs for suspended and expelled students.

C. Each alternative school or program will develop and maintain a written statement of the mission and the major purposes to be served by the school or program. The statement will reflect the individual vision of the school or program and the characteristics and needs of the students served.

D. The educational school or program will be designed to implement the stated goals and objectives, which are directly related to the unique educational requirements of the student body.

E. The provisions of this Part (Bulletin 131) will not be construed to conflict with any federal or state laws, rules, and regulations affecting special education students as defined in R.S. 17:1943 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17.416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2126 (July 2011), amended LR 45:

Chapter 3. Transitional Planning and Support [Formerly Chapter 13]

§301. Transition Processes [Formerly §1301]

A. The school system will ensure that students are transitioned to an alternative education site using a formalized intake process that addresses both behavioral and academic needs. The transition process will include a review of academic and behavioral records including, but not limited to, individual academic improvement plans, individual graduation plans, or individualized education plans (IEP), as applicable, in order to ensure that appropriate academic supports and opportunities remain available to the student.

1. Each school system with an alternative education site will develop a consistent transition process that includes a checklist of all records produced by a referring school and a fixed timeframe specifying when information will be forwarded to the alternative education school or program.

2. The transition process will:

a. address appropriate behavior interventions and specific goals for behavioral progress;

b. define specific goals for academic progress, including Carnegie credits for grades 9-12;

c. outline a timeframe for updating IEPs for students with disabilities and individual accommodation/section 504 plans (IAP); and

d. provide a plan for students returning to the sending school including, but not limited to, bridge supports such as mentoring or counseling, to assist students in readjusting to a traditional school setting.

3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:

Chapter 5. Behavioral Interventions and Supports

§501. Safety and Counseling

A. School systems operating an alternative school or program must address the root cause of the behavioral misconduct while a student is educated at the alternative education school or program site, utilizing evidence based interventions and strategies.

1. An approved alternative education site must:

a. provide clear expectations for learning and student conduct using a multi-tier system of support (MTSS) framework that includes use of any evidence-based behavioral intervention including, but not limited to:

i. positive behavior interventions and supports;

ii. restorative practices; or

iii. trauma-informed response; and

b. detail, through the authorization process and an annual report, the full list of evidence-based interventions used to address student behavior. Each intervention or strategy will be aligned to one of the three tiers within an MTSS.

2. - 5. Repealed.

B. In addition to the required behavioral interventions and supports, alternative sites must prioritize the following:

1. adopt and implement a social-emotional learning curriculum for use that aligns to the selected behavioral intervention and overall behavioral approach selected by the site;

2. maintain a list of identified student growth measures, such as evaluation plans, assessments, and learning outcomes, that measure student behavioral improvement resulting from evidence-based behavioral intervention; and

3. identify annually a set of implementation fidelity measures used to evaluate the efficacy of the selected behavioral intervention and assess interventions needing improvement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:

Chapter 7. Workforce Talent

§701. Annual Professional Development Plan

A. Alternative education sites will create an annual professional development plan that will:

1. - 2. ...

3. emphasize quality implementation of evidence-based and best practices; and

4. establish performance evaluations aimed at improving program and student outcomes and overall school or program quality.

B. Alternative sites must identify and provide annual staff professional development trainings and tools to that support the target student population as identified in the alternative education site application which includes, but is not limited to:

1. behavioral interventions;

2. classroom management;

3. trauma-informed response;

4. adverse childhood experiences (ACEs); and

5. implementation strategies for selected behavioral interventions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:

Chapter 9. Academic Interventions and Supports

§901. Curriculum and Instruction

A. School systems operating alternative education sites must address the root cause of academic challenges while a student is educated at the alternative education school or program, utilizing evidence-based academic interventions and strategies.

1. Alternative education sites must:

a. utilize standards-aligned curriculum comparable to curriculum utilized at the sending school in the school system;

b. provide targeted instructional methods to aid student progress and academic achievement;

c. monitor student academic progress on a regular and frequent basis, including a review of academic work completed, noting any improvements from the time since the student was transferred to the site; and

d. meet targeted credit accumulation goals identified in LAC 28:XI.Chapter 35 (Bulletin 111), for

students enrolled at the alternative education site for at least one semester. For high school students, the goals must include specific Carnegie credit goals.

2. - 3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:

§903. Access to Post-Secondary Education Pathways

A. Alternative education sites must offer students access to post-secondary education pathways that are comparable to existing options within the school system, including TOPS University and Jump Start TOPS Tech, unless the local superintendent finds that extenuating circumstances make such offerings impossible. Extenuating circumstances must be documented and detailed within the school system annual report, including actions the school system is pursuing to make such pathways accessible in the future.

B. Students pursuing a pathway or credential prior to being referred to alternative education must be permitted to continue pursuit of such credential or pathway, unless the local superintendent determines that there are documented safety concerns based upon demonstrated student behavior or that extenuating circumstances make such offerings impossible. Any changes to the student's pathway or pursuit of a credential will be documented in the student's approved individual graduation plan (IGP).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

Chapter 11. School Climate and Culture

§1101. Climate and Culture

A. Alternative education sites must have a plan to address and continually evaluate school climate and culture to ensure academic and behavioral improvement.

1. Alternative schools should utilize an annual climate survey. The survey should seek to assess student, staff and administrative attitudes and perception of the environment and overall culture of the site.

2. Results of the annual climate survey, if administered, should be shared with teachers, staff, administration, parents and students no later than May 15 each academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

Chapter 13. Staff and Parent/Legal Custodian Partnership [Formerly Chapter 15]

§1301. Parent and Legal Custodian Involvement [Formerly §1501]

A. Alternative education sites must actively document efforts to engage parents and legal custodians beyond parent/legal custodian-teacher meetings. A nonjudgmental, solution-focused approach that incorporates parents/guardians as respected partners throughout the student's length of stay must be emphasized.

B. Parents and legal custodians must be engaged in planning developed to support student academic and behavioral progress including, but not limited to:

1. individual academic improvement plan;
2. individual graduation plan;
3. individualized education program (IEP) plan; and
4. individual accommodation plan (IAP)/section 504 plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2127 (July 2011), amended LR 45:

Chapter 15. Mental Health Supports and Interventions [Formerly Chapter 17]

§1501. Counseling and Community Partnerships [Formerly §1701]

A. Alternative education sites must provide students with academic, behavioral, and social-emotional counseling designed to promote student academic progress and to address the underlying causes of student behavioral misconduct.

B. Counseling provided by the site or per R.S. 17:416.2 may include student access to mental health supports and interventions via a community partnership that includes evidence-based cognitive interventions to support improved student behavior, address childhood trauma, and enhance social skills to increase the likelihood of the student success.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, and 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2128 (July 2011), amended LR 45:

Chapter 17. Alternative Site Evaluation and Accountability [Formerly Chapter 19]

§1701. Collaboration [Formerly §1901]

A. Alternative education sites will annually conduct systematic program evaluations for compliance and continuous improvement to include submission of an annual report to the LDE that details the following:

1. planned revisions to the site mission, structure, staffing, interventions, partners, or strategies to support student success; and

2. copies of the site climate survey and results, if administered; and

3. summaries of annual staff professional development to support student success.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17.252, and 17.416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2128 (July 2011), amended LR 45:

§1703. Alternative Education Site Accountability

A. Alternative education school and program performance will be measured annually using the indicators established in LAC 28:XI.Chapter 35 (Bulletin 111).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

Chapter 19. Dropout Prevention and Recovery Programs [Formerly Chapter 21]

§1901. Dropout Recovery Program [Formerly §2101]

A. Each school district and charter school that provides instruction to high school students may offer a dropout recovery program for eligible students.

B. BESE-prescribed standards and testing requirements will apply to dropout recovery programs.

C. The dropout recovery program will:

1. provide appropriate and sufficient supports for students, including tutoring, career counseling, and college counseling;

2. comply with federal and state laws and BESE policies governing students with disabilities; and

3. meet state requirements for high school graduation.

D. Eligible students enrolled in a dropout recovery program will have an individual graduation plan developed by the student and the academic coach that include the following elements:

1. the start date and anticipated end date of the plan;

2. courses to be completed by the student during the academic year;

3. whether courses will be taken sequentially or concurrently;

4. state exams to be taken, as necessary;

5. expectations for satisfactory monthly progress; and

6. expectations for contact with the designated student's academic coach.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17:221.4, and 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:370 (February 2015), amended LR 45:

§1903. Reporting Requirements [Formerly §2103]

A. A student enrolled in a dropout recovery program must be included in the student enrollment count for the school or school system offering the program. Each school and school system will report the following information to the LDE on a monthly basis:

1. newly enrolled students in the dropout recovery program who have an individual graduation plan on file on or before the first school day of the month;

2. students who met the expectations for satisfactory monthly progress for the previous month;

3. students who did not meet the expectations for satisfactory monthly progress for the previous month, but did meet expectations for one of the two previous months; and

4. students who met expectations for program reentry in the revised individual graduation plan during the previous month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17:221.4, and 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:370 (February 2015), amended LR 45:

§1905. Requirements for Educational Management Organizations [Formerly §2105]

A. School districts and charter schools may contract with an educational management organization to provide a dropout recovery program. If contracting with an educational management organization, the school district or charter school must ensure that all of the following requirements are met:

1. the educational management organization is accredited by a regional accrediting body;

2. teachers provided by the educational management organization hold a current teaching license from any state and teachers of core subjects are highly qualified in the subjects assigned; and

3. the educational management organization has provided one or more dropout recovery programs for at least two years prior to providing a program pursuant to this Section.

B. Entities contracted to provide dropout recovery programs may conduct outreach to encourage students who are not enrolled in a school district or charter school in this state to return to school.

1. Entities will not conduct advertising or marketing campaigns directed at students who are currently enrolled in a school district or charter school nor engage in activity that encourages students who are enrolled to stop attending school in order to qualify for a dropout recovery program.

C. Contracts entered into by an LEA for a student dropout recovery program must include requirements for the protection of personally-identifiable student information that complies with applicable state and federal laws and BESE regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17:221.4, and 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

§1907. Definitions [Formerly §2107]

Academic Coach—an adult who assists students in:

1. selecting courses needed to meet graduation requirements;

2. monitoring student pace and progress through the program; and

3. conducting regular pace and progress interventions.

Eligible Student—a student who is not enrolled in a school district or charter school and who has been withdrawn from a school district or charter school for at least 30 days, unless a school administrator determines that the student is unable to participate in other district programs.

Satisfactory Monthly Progress—amount of progress measurable on a monthly basis and that, if continued for 12 full months, will result in the same amount of academic credit awarded to students in traditional education programs completed in a full school year. Satisfactory monthly progress may include a lesser-required amount of progress for the first two months of participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:100.5, 17:221.4, and 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

Chapter 21. Alternative Site Authorization and Approval

§2101. Approval for Alternative Schools or Programs

A. Approval to operate an alternative school or program must be obtained from BESE.

1. A school system choosing to implement an alternative school or program shall notify the LDE on or before the date prescribed by the LDE. School systems cannot change the requested school or program classification after March 15 annually, until the next application period

2. The LDE will submit to BESE an annual:

a. list of alternative sites to approve or disapprove by April; and

b. alternative schools and programs report by October.

3. An approved alternative school or program will be:

a. included in the school system pupil progression plan; and

b. subject to monitoring by the LDE staff, as needed.

B. Eligibility for authorization of an alternative education site requires local educational authority completion of an application provided by the LDE. Eligibility criteria required include:

1. alternative site type sought (school or program);
2. transitional planning and support;
3. counseling and mental health supports;
4. staff professional development;
5. identified behavioral interventions;
6. identified academic interventions and graduation pathways; and
7. annual climate survey, if conducted.

C. Alternative education sites will be approved if all eligibility criteria are met. Reauthorization of an alternative site will be reviewed every three years and approval, provisional approval, or nonrenewal will be based upon delivery of eligibility criteria.

C.1. - D.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

§2103. Reporting Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5, R.S. 17:221.4, and R.S. 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:370 (February 2015), repealed LR 45:

§2105. Requirements for Educational Management Organizations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5, R.S. 17:221.4, and R.S. 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:370 (February 2015), repealed LR 45:

§2107. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5, R.S. 17:221.4, and R.S. 17:221.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:371 (February 2015), repealed 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), January 9, 2019 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: Alternative Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be increased costs for local school districts to implement the revised provisions for alternative educational programs and schools. Increases will vary depending upon the changes required at the district level and the existing resources of the impacted districts and are indeterminable at this time.

The proposed changes to Bulletin 131 require school districts with alternative school sites to provide resources to address behavior interventions, updates to IEPs for certain students and bridge supports, such as mentoring or counseling, as well as access to mental health supports and interventions for students. School systems must address student behavior utilizing evidence-based interventions and strategies, and specialized curriculum, as well as access to education pathways comparable to existing options within the school system. Further the rules require alternative sites to provide specific professional development training and tools to staff that support the targeted population.

Changes to Bulletin 111 establish a new rating formula for alternative education (AE) schools and change the maximum number of students required for a school to receive a school performance score (SPS) and school letter grade. Changes to Bulletin 741 pertaining to alternative education schools and programs are technical in nature. Changes to these bulletins are not anticipated to result in any costs or savings for 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)

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
Deputy Superintendent
1812#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Coastal Protection and Restoration Authority

Coastal Mineral Agreements (LAC 43:XXXI.Chapter 2)

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. 41:1702 (D), that the Coastal Protection and Restoration Authority proposes to adopt Chapter 2 of Title 43, Part XXXI of the Louisiana Administrative Code to implement the provisions of R.S. 41:1702(D), which allows the executive director to enter into agreements with coastal landowners in order to facilitate the development, design engineering, implementation, operation, maintenance, or repair of integrated coastal protection projects by the Coastal Protection and Restoration Authority under R.S. 49:214.1 et seq. or other applicable law or projects for the Atchafalaya Basin Program. In exchange, the executive director of CPRA may establish in favor of such owner the perpetual, transferrable ownership of all subsurface mineral rights to the then-existing coast or shore line. Such agreements may also provide for a limited or perpetual alienation or transfer, in whole or in part, to such owner of subsurface mineral rights owned by the state relating to the emergent lands that emerge from water bottoms that are subject to such owner's right of reclamation in exchange for the owner's compromise of his ownership and reclamation rights within such area and for such time as the executive director deems appropriate and in further exchange for the owner's agreement to allow his existing property to be utilized in connection with an integrated coastal protection project to the extent deemed necessary by the executive director.

Title 43
NATURAL RESOURCES
Part XXXI. Coastal Protection and Restoration Authority

Chapter 2. Coastal Mineral Agreements

§201. Purpose and Authority

A. Purpose

1. The purpose of this Chapter is to enable the executive director to protect the state of Louisiana and its citizens from coastal and wetland degradation, hurricanes, and flooding by entering into voluntary coastal mineral agreements with certain landowners to obtain real property and rights in real property, in order to facilitate the development, design, or implementation of plans or projects for coastal conservation, restoration, protection, or

management, including hurricane protection or flood control.

2. This Chapter sets forth the procedures pursuant to which the executive director may enter into such coastal mineral agreements.

B. Authorized Agreements

1. The executive director may enter into a coastal mineral agreement under this Chapter:

a. with any person who owns land contiguous to and abutting navigable water bottoms, the territorial sea, and the seashore belonging to the state and who has the right to reclaim eroded land, in order to facilitate an integrated coastal protection project; or

b. in relation to the acquisition of land by an acquiring authority from any person, for the principal purpose of facilitating an integrated coastal protection project.

2. Pursuant to a coastal mineral agreement under this Chapter:

a. the state may acquire ownership of, servitudes over, and other interests in existing land, other consideration or performance of certain actions, and reclamation rights in relation to eroded land;

b. an acquiring authority may acquire ownership of, servitudes over, and other interests in existing land or emergent; and/or

c. the executive director may establish in certain landowners limited or perpetual, transferrable or non-transferrable ownership of subsurface mineral rights in existing land, and may convey to certain landowners limited or perpetual, transferrable or non-transferrable ownership of subsurface mineral rights in emergent land.

3. It is the intention of these regulations, and any agreement entered into pursuant to this Chapter, that any mineral interests established or conveyed pursuant to such agreements and any exercise thereof are and must be subordinate to integrated coastal protection, as defined in R.S. 49:214.2, including but not limited to coastal conservation, restoration, protection, and management, hurricane protection, and flood control plans or projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:

§203. Definitions

A. The following definitions shall apply for purposes of this Chapter, unless specifically defined otherwise.

Acquiring Authority—as defined by R.S. 31:149.

Acquired Land—ownership of, or other rights in, existing or emergent land acquired or proposed to be acquired by an acquiring authority pursuant to an agreement under this Chapter.

Agreement—an agreement entered into pursuant to this Chapter, as authorized by R.S. 41:1702. Such an agreement may be referred to as a coastal mineral agreement.

Integrated Coastal Protection Project—as defined by R.S. 49:214.2.

CPRA—Louisiana Coastal Protection and Restoration Authority.

Emergent Land—as defined by R.S. 41:1702(D)(2)(e).

Eroded Land—land lost through erosion, compaction, subsidence, or sea level rise occurring on and after July 1, 1921; or any land lost by erosion, compaction, subsidence, or sea level rise on the landward side of the coast of the Gulf of Mexico, as that coast is defined in the decree of the United States Supreme Court dated June 16, 1975, in United States v. State of Louisiana, No. 9 Original (Tidelands Case), regardless of whether the erosion occurred before July 1, 1921.

Executive Director—executive director of the Louisiana Coastal Protection and Restoration Authority or his designee.

Existing Land—land, including non-navigable water bottoms, owned by an owner as of the effective date of the agreement.

Facilitate—enable, assist in, further, or remove an impediment to the development, design, implementation, or maintenance of an integrated coastal protection project.

Owner—a person who owns land or non-navigable water bottoms affected or proposed to be affected by an agreement. In the case of undivided interests, the owners of all such undivided interests shall be considered as the owner for purposes of this Chapter, unless otherwise approved by the executive director.

Reclamation Right—the potential right to seek reclamation or recovery of eroded land and any such appurtenant rights, including oil, gas, and mineral rights, as provided and limited by R.S. 41:1702(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:

§205. Provisions Applicable to all Agreements

A. Discretion of the Executive Director

1. Subject to approval of any agreement by the House and Senate Committees on Natural Resources, the executive director shall have complete and final discretion regarding whether to enter into any agreement, and if so, regarding the terms of the agreement, including but not limited to the location and configuration of lands, water bottoms, or subsurface mineral rights affected or conveyed by the agreement and the nature and extent of any interests affected, established, or conveyed by the agreement.

2. An agreement may contain any term that is within any authority of the executive director, when the executive director determines that inclusion of the term is in the best interests of the state.

B. Determination of Boundaries

1. The owner shall consult with the administrator of the Office of State Lands to determine whether a boundary for existing or emergent land is disputed as between the state, the owner, and any other owners that may be affected by the agreement.

2. In the event of a disputed boundary between the state and other owners, the executive director may require a boundary determination pursuant to R.S. 41:1131-1136, whether as a prerequisite to negotiating or entering into an agreement, as a means of finalizing or updating a boundary for emergent land, or for any other situation when a boundary is disputed.

C. Required Terms. Any agreement shall include the following:

1. identification of the ownership and boundaries of lands or water bottoms affected by the agreement;

2. legal descriptions of the boundaries of existing land and eroded land affected by the agreement, acquired land

acquired pursuant to the agreement, lands as to which the owner compromises its reclamation rights pursuant to the agreement, and subsurface mineral rights established, compromised, or conveyed pursuant to the agreement;

3. plat depicting lands, water bottoms, and boundaries of existing land or eroded land affected by the agreement. Unless otherwise agreed by the executive director, the plat shall be prepared by a surveyor currently registered by and in good standing with the Louisiana Professional Engineering and Land Surveying Board and shall depict and label the following:

a. location and boundaries of existing land, eroded land, and water bottoms affected by the agreement, as of the most current data available, showing Louisiana grid coordinates of all corners and angle points and identifying the source of data used;

b. location and boundaries of any acquired land acquired pursuant to the agreement, showing Louisiana grid coordinates of all corners and angle points and identifying the source of data used;

c. location and boundaries of any lands as to which the owner compromises its reclamation rights pursuant to the agreement, showing Louisiana grid coordinates of all corners and angle points and identifying the source of data used;

d. location and boundaries of any subsurface mineral rights established or conveyed pursuant to the agreement, showing Louisiana grid coordinates of all corners and angle points and identifying the source of data used;

e. ownership of existing land, water bottoms, acquired land, and subsurface mineral rights affected by the agreement, both prior to and as affected by the agreement. The last owners of eroded land affected by the agreement, immediately prior to its erosion, shall also be identified.

f. existing shorelines, as of the most current data available, and identifying the source of the data used;

g. shorelines or coastline as of July 1, 1921 or as of the earliest time for which data is available, identifying the date and source of the data used;

h. coast of the Gulf of Mexico, as that coast is defined in the decree of the United States Supreme Court dated June 16, 1975, in United States v. State of Louisiana, No. 9 Original (Tidelands Case);

i. all parish, town, city, and similar boundary lines within or in the vicinity of the lands or water bottoms affected by the agreement;

j. all roads within or in the vicinity of the lands or water bottoms affected by the agreement;

k. graphic scale, north arrow, and township, section, and range; and

l. any other matter required by the executive director;

4. stipulation that the acquired land shall remain available for the principal purposes of the acquisition and that the state may enforce the stipulation by specific performance and by mandatory and/or prohibitory injunction. For a type 2 agreement, the acquiring authority will pay all of the state's reasonable attorney fees, expenses, and costs involved in enforcing this stipulation.

D. Negotiation of Agreements. The executive director may negotiate an agreement by any means and in any manner permissible under law that he deems appropriate and in the best interests of the state.

1. The executive director may designate a person, section, or division within the CPRA to receive requests for agreements.

2. The executive director may designate a person, section, or division within the CPRA to negotiate each agreement.

3. The executive director may notify an owner that he seeks an agreement, and he may request a meeting to negotiate the proposed agreement. Such notification may, but need not be, in writing.

4. If any person possesses or reasonably appears to the executive director to possess an interest in existing land or eroded land that may be affected by the agreement, the executive director may include such person in the negotiations and any agreement.

E. Suspensive Conditions. An agreement or term thereof may be subject to a suspensive condition, and in such cases the agreement or term shall be of no force or effect until the condition occurs. Where a suspensive condition is imposed by operation of law, it need not be stated in the agreement. For example, the establishment or conveyance of ownership of subsurface mineral rights in emergent land pursuant to an agreement must be contingent upon the emergence of such land. The parties should explicitly agree as to whether the terms and/or other consideration provided in the agreement constitute sufficient cause for the parties' mutual undertakings.

F. Resolutory Conditions. An agreement or term thereof may be subject to a resolutory condition, and in such cases the agreement or term shall be of no force or effect upon occurrence of the resolutory condition. Where a resolutory condition is imposed by operation of law, it need not be stated in the agreement. For example, ownership of subsurface mineral rights in emergent land established or conveyed pursuant to an agreement terminate upon the re-erosion of such land; except the effects of R.S. 9:1151 et seq. shall not be affected thereby. The parties should explicitly agree as to whether the terms and/or other consideration provided in the agreement constitute sufficient cause for the parties' mutual undertakings.

G. Use of Surface. Unless otherwise agreed, any person granted a perpetual, transferrable ownership of subsurface mineral rights pursuant to an agreement shall have a perpetual, transferrable servitude to use the surface of any such land for the purposes of locating, accessing, extracting, and transporting those subsurface minerals with the same freedom, and subject to the same restrictions, as an owner of the surface. However, the parties may agree to compromise this right; and no such right may be exercised so as to impair, contravene, and/or interfere with the integrity, features, and/or purposes of any integrated coastal protection project.

H. Provision of Information. Any owner or acquiring authority sought to be included in an agreement shall provide all information deemed necessary by the executive director to consider and reach final decisions regarding any matter addressed in this Chapter.

I. Notice of Final Decision. If the executive director makes a final decision not to enter into a proposed agreement, he shall mail written notice of his final decision,

designated as such, to any person requesting the agreement at such person's address as provided to the executive director. Such notice shall be sent by certified mail, return receipt requested.

J. Payments in Lieu of Taxes. The executive director may require a provision in any agreement that the owner or acquiring authority shall pay to the political subdivision or parish governing authority a certain amount in lieu of taxes to be paid to that governmental entity as to existing land conveyed to the state or an acquiring authority or to eroded land acquired by the state. The payments in lieu of taxes shall not exceed the amount that would have been paid in accordance with current local property tax assessments had the owner continued to own the land. The amount and duration of the payments shall be negotiated by the parties, and the executive director may consult with the political subdivision or parish governing authority in relation thereto.

K. Limitation to Coastal Area. Agreements under this Chapter shall pertain only to lands and water bottoms within the coastal area as defined at R.S. 49:214.2. However, the executive director may waive this limitation in extraordinary circumstances, if he determines that adequate measures are included in the agreement or otherwise available to the CPRA to protect the public interest in the lands and water bottoms affected by the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:

§207. Agreements to Facilitate Integrated Coastal Protection Projects (Type 1 Agreements)

A. Required Determinations. The executive director may enter into an agreement under this Section (also referred to as a type 1 agreement) with an owner when the executive director determines:

1. that an integrated coastal protection project would likely be facilitated by acquiring ownership of, servitudes over, and/or other interests in existing land owned by the owner holding reclamation rights; and/or that an integrated coastal protection project would likely be facilitated by acquiring any rights in eroded land claimed by an owner holding reclamation rights; and

2. that the person contracting with the state is an owner who holds marketable title to the property or property rights to be conveyed by him, and/or to property providing him with reclamation rights. This requirement may be satisfied by a title opinion;

B. Rights Authorized to be Obtained. Pursuant to an agreement under this Section, the state may obtain or receive ownership of, servitudes over, and/or other interests in existing land that may affect or may be affected by an integrated coastal protection project, any other consideration or performance of any action that may affect or may be affected by an integrated coastal protection project, and/or compromise of ownership and reclamation rights within such area and for such time as the executive director deems appropriate in relation to an integrated coastal protection project.

1. In the case of an agreement providing for a limited or perpetual alienation or transfer, in whole or in part, to an owner of subsurface mineral rights owned by the state relating to emergent land that emerges from water bottoms that are subject to the owner's reclamation rights, the agreement shall require the owner to compromise his claim of ownership and reclamation rights at a minimum for the time the land meets the definition of emergent land pursuant to R.S. 41:1702, and in further exchange for the owner's agreement to allow his existing land, in whole or in part, to be utilized in connection with an integrated coastal protection project, to the extent deemed necessary by the executive director.

2. In the case of an integrated coastal protection project involving a barrier island, the executive director may require the owner to transfer title to all or a portion of the island in exchange for any subsurface mineral rights acquired by the owner.

C. Rights authorized to be established or conveyed. pursuant to an agreement under this Section, the executive director may do one or more of the following:

1. establish in an owner holding reclamation rights the limited or perpetual, transferrable or non-transferrable ownership of subsurface mineral rights in the owner's existing land to the then-existing coast or shore line;

2. convey to an owner holding reclamation rights the limited or perpetual, transferrable or non-transferrable ownership of subsurface mineral rights owned by the state in emergent land that emerges from eroded land subject to the owner's reclamation rights;

3. convey or provide any other consideration for the agreement that is within any authority of the executive director.

D. Discretion of the Executive Director. An agreement under this Section may contain any term that is within any authority of the executive director, when the executive director determines that inclusion of the term is in the best interests of the state. In particular, the executive director may define any subsurface mineral right established or conveyed pursuant to an agreement under this Section in any manner that he deems appropriate and in the best interests of the state, including but not limited to the following respects:

1. whether to convey ownership of such mineral rights in any portion of the emergent land that emerges from water bottoms subject to the owner's reclamation rights, and to define any such portion;

2. whether to make ownership of such mineral rights in any portion of the emergent land perpetual or limited, and to define the duration of a limited conveyance;

3. whether to make ownership of such mineral rights in any portion of the emergent land transferrable or non-transferrable;

4. whether to establish in any portion of the owner's existing land such perpetual or limited, transferrable or non-transferrable mineral rights, the ownership of which is not affected by any future erosion, compaction, subsidence, or sea level rise;

5. whether to convey full ownership or an undivided interest in such mineral rights, and to define the extent of any such undivided interest.

E. Emergent Land. Any conveyance of subsurface mineral rights in emergent land shall be suspended until actual emergence of the land and fulfillment of the following requirements. Unless for purposes of reclamation by the owner to recover land lost through erosion, the state shall not alienate the surface rights to emergent land.

1. Upon the emergence of emergent land, the owner shall submit verification of the emergence to the executive director and the administrator of the office of state lands, including a legal description of the emergent land claimed by the owner, and a plat and aerial photography thereof. The plat shall be prepared by a surveyor currently registered by the Louisiana Professional Engineering and Land Surveying Board.

2. The owner and the administrator of the Office of State Lands shall enter into an emergent land boundary addendum to the agreement, agreeing to the boundary between the emergent land and the remaining water bottoms.

a. The administrator of the Office of State Lands shall consult with the executive director to determine the extent to which the emergent land is reasonably permanent.

b. In the event of disputed boundaries between the state and other owners, the executive director may require a boundary determination pursuant to R.S. 41:1131-1136.

c. No definitive boundary shall be fixed nor shall mineral rights be vested unless and until proof is made that the land is emergent land as defined in this Chapter.

d. Any emergent land boundary addendum shall include a final plat showing the emergent land as agreed by the owner and the administrator of the office of state lands or as determined by the boundary determination. The plat shall be prepared by a surveyor currently registered by the Louisiana Professional Engineering and Land Surveying Board.

e. Any emergent land boundary addendum shall include a legal description of the boundaries of the emergent land.

f. The Commissioner of the Division of Administration shall also be a party to any such emergent land boundary addendum.

3. Upon execution of an emergent land boundary addendum by all parties thereto, the administrator of the Office of State Lands shall provide a fully-executed copy to each person that is a party thereto and to the commissioner of the Division of Administration.

a. The owner shall record the emergent land boundary addendum in the conveyance records of all parishes in which the emergent land is located.

b. Recording of an emergent land boundary addendum in the conveyance records of all parishes in which the emergent land is located shall constitute public notice thereof for all purposes.

c. The owner recording the emergent land boundary addendum shall immediately provide certified copies thereof to the executive director and the administrator of the Office of State Lands.

4. Any conveyance of subsurface mineral rights in emergent land by an agreement shall be effective as of the effective date of the emergent land boundary addendum.

5. Any conveyance of subsurface mineral rights in emergent land shall be subject to and such rights shall be encumbered with any right-of-way or servitude grant, or any mineral, geothermal, geopressure, or any other lease granted by the state for a lawful purpose while the emergent land was an eroded or subsided area, the rights of the state or lessee thereunder to be in no manner abrogated or affected by the agreement and to remain free and clear of any claim by the owner for compensation out of the proceeds of the grant or lease or otherwise.

6. In the event a portion of emergent land subject to an agreement no longer meets the definition of emergent land, the conveyance of subsurface mineral rights for that portion of emergent land, whether for a term or in perpetuity, to the owner shall terminate and revert back to the state. The agreement shall remain in effect for those portions of emergent land that continue to meet the definition of emergent land.

F. Initiation by Owner. An owner may request an agreement under this Section from the executive director. Unless otherwise agreed, any such request shall be in writing and shall state and fully explain the following:

1. the land, water bottoms, and subsurface mineral interests that the owner seeks to include in the Agreement. A plat (which may but need not be a survey) depicting all such land, water bottoms, and subsurface mineral interests shall be attached;

2. the reasons that the owner asserts that an agreement is appropriate;

3. The basis upon which the owner asserts that he qualifies for an agreement under this Section. Copies of documentation evidencing the owner's title to the land or water bottoms sought to be included in the agreement and to land providing the owner with reclamation rights, shall be attached. A title opinion may satisfy this requirement.

4. Draft proposed memorandum of understanding stating the general terms sought for the agreement, including but not limited to all consideration, undertakings, performances, or concessions sought from the executive director or any interest owner or claimant in relation to the acquisition; and any consideration, undertaking, performance, or concession intended to be provided or made by the owner.

5. CD-ROM containing the proposed memorandum of understanding in Microsoft Word format or other form of documentation or format approved by the executive director.

6. The identity of all persons owning or believed by the owner to own any interest affecting the land or water bottoms sought to be included in the agreement, the nature and extent of the interest, and contact information for such person, regardless of whether the owner believes the interest to be relevant or existing. The owner shall make a thorough search of the public records and any other relevant source of knowledge for such interests. Copies of all documents indicating the existence or extent of such an interest shall be attached.

7. The identity of all persons holding or believed by the owner to hold a claim adverse to the owner in relation to the land or water bottoms sought to be included in the agreement, the nature and extent of the claim, and contact information such holder, regardless of whether the owner believes the claim to be relevant or meritorious. The owner shall make a thorough search of the public records and any other relevant source of knowledge for such claims. Copies of all documents indicating the existence or extent of such a claim shall be attached.

8. Contact information for the person seeking the agreement, and designation of a single point of contact regarding the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:

§209. Agreements to Facilitate Integrated Coastal Protection Projects Through Acquisitions (Type 2 Agreements)

A. Required Determinations. The executive director may enter into an agreement under this section (also referred to as a type 2 agreement) with an owner as an acquiring authority, or with an acquiring authority and an owner, when the executive director determines:

1. that an integrated coastal protection project would likely be facilitated by the proposed acquisition of land from the owner;

2. that the principal purpose of entering into the agreement would be to facilitate an integrated coastal protection project by the state, its political subdivisions, or by the state and federal government;

3. that the purported owner is an owner who holds marketable title to the property or property rights to be conveyed by him, and/or to property providing him with reclamation rights. This requirement may be satisfied by a title opinion; and

4. that the purported acquiring authority is an acquiring authority. It is specifically contemplated that the state or any of its subdivisions, departments, or agencies may be an acquiring authority and enter into agreements under this Section to acquire land for the principal purpose of facilitating an integrated coastal protection project.

B. Rights Authorized to be Obtained. Pursuant to an agreement under this Section, the state may obtain or receive any interest, consideration, or benefit that the state may obtain or receive pursuant to an agreement under Section 207(B) of this Chapter.

C. Rights Authorized to be Established or Conveyed. Pursuant to an agreement under this Section, the executive director may establish, convey, or provide any interest, consideration, or benefit that the executive director may establish, convey, or provide pursuant to an agreement under §207.C of this Chapter.

D. Discretion of the Executive Director. Pursuant to an agreement under this Section, the executive director may define any subsurface mineral right established or conveyed pursuant to the agreement in any manner that the executive director may define a subsurface mineral right established or conveyed pursuant to an agreement under §207.D of this Chapter.

E. Emergent Land. Any conveyance of subsurface mineral rights in emergent land pursuant to an Agreement under this Section shall be effective only upon actual emergence of the land and fulfillment of the requirements for conveyance of such rights, as required pursuant to an agreement under §207.E of this Chapter.

F. Acquisition by Acquiring Authority. Pursuant to an agreement under this Section, an acquiring authority may obtain ownership of any of the owner's existing land, an undivided interest therein, or any other interest therein, subject to the limitations imposed by this Chapter and R.S. 41:1702, any limitations imposed by the agreement, and/or any subsurface mineral rights established or conveyed by the agreement. If an agreement under this Section is in the form of, or constitutes part of, an act of gratuitous donation of immovable property to the state, acceptance by the state of such property shall be subject to the requirements of R.S. 41:151 or its successor, if applicable, regarding determination by the Commissioner of the Division of Administration whether accepting the donation is in the best interests of the state and negotiation of the terms and conditions of the donation, and approval by the House Committee on Natural Resources and the Senate Committee on Natural Resources.

G. Required Considerations. Before entering into an agreement under this Section, the executive director may consider the nature, extent, and conditions of public access to and use of the surface lands and waters that will be permitted by the acquiring authority on the land and water bottom acquired, including for navigation, boating, commercial and recreational fishing, hunting, trapping, nature observation and study, and other traditional activities that are consistent with the principal purposes of the acquisition.

H. Additional Required Terms. In addition to any other terms required by this Chapter, an agreement under this Section shall contain the following terms:

1. identification of the principal purposes of entering into the agreement;

2. identification of all mineral rights in the acquired land or affected by the agreement and the holders thereof upon execution of the agreement, and the manner in which any such mineral rights may be exercised;

3. stipulation that mineral rights shall not be exercised so as to impair, contravene, or interfere with any integrated coastal protection project or the principal purpose of the acquisition, that the state may use specific performance and executive procedure to enforce this stipulation, and that the acquiring authority will pay all of the state's reasonable attorney fees, expenses, and costs involved in enforcing this stipulation;

4. identification of all permanent easements, servitudes, rights-of-way, and rights of use necessary to facilitate the principal purposes of the acquisition, and the holders thereof, upon execution of the agreement. These shall include but are not limited to those necessary for construction, operation, maintenance, repair, replacement, and rehabilitation of any projects or cooperative agreements undertaken by the state or a political subdivision for coastal protection, conservation, restoration, or management or by the state and federal governments pursuant to state or federal law, including but not limited to, the Coastal Wetlands Planning, Protection and Restoration Act, the Coastal Zone Management Act, the Water Resources Development Act, the Coastal Impact Assistance Program, and the North American Wetlands Conservation Act;

5. identification of any other easement, servitude, right-of-way, or right of use as may be determined by the executive director to be necessary regarding public access and use, and the holders thereof upon execution of the agreement;

6. indemnity and hold harmless provision in favor of the state and any other public entity affected by the agreement, by the acquiring authority and the holder of any mineral interest upon execution of the agreement, except for the negligence or actions of the public entity, its employees, agents, contractors, and assigns;

7. stipulation regarding the nature, extent and conditions of public access to and use of the surface lands and waters that will be permitted by the acquiring authority on the land and water bottom acquired, including for navigation, boating, commercial and recreational fishing, hunting, trapping, nature observation and study, and other traditional activities that are consistent with the principal purposes of the acquisition. The agreement shall also include a stipulation that the state may use specific performance to enforce this stipulation, and that the acquiring authority will pay all of the state's reasonable attorney fees, expenses, and costs involved in enforcing this stipulation;

8. agreements involving an acquiring authority that is not CPRA shall include:

a. a requirement that the acquiring authority determine the immediate and long-term financial and management implications of the agreement and that it secure and maintain the dedicated and/or operating funds needed to manage the property, including funds for liability insurance, maintenance, improvements, monitoring, enforcement, and other costs and prevent any use of the property that will impair, contravene, and/or interfere with the integrity and sustainability of the property;

b. a requirement that the acquiring authority inventory the natural and cultural features of the land acquired pursuant to an agreement prior to developing a management plan that identifies its conservation goals for the land and how it plans to achieve them, create and establish a management plan for the land, and permit on the land only activities that are compatible with the conservation goals, stewardship principles, and public benefit mission of the acquiring authority and the management plan;

c. a requirement that the acquiring authority mark the boundaries and regularly monitor the land acquired pursuant to an agreement for potential management problems (such as trespass, misuse or overuse, vandalism, or safety hazards) and take appropriate action to rectify such problems;

d. a requirement that the acquiring authority perform administrative duties in a timely and responsible manner, including establishing policies and procedures, keeping essential records, filing forms, paying insurance, paying any taxes and/or securing appropriate tax exemptions, budgeting and maintaining files;

e. a requirement that the acquiring authority keep neighbors and community leaders informed about its ownership and management of the land acquired pursuant to an agreement;

f. a requirement that the acquiring authority maintain its certification as a certified land conservation organization under the applicable CPRA rules and regulations and a provision that upon revocation of the certification, the land conservation organization shall be obligated to transfer or convey all of its right, title and interest in and to the coastal land, the reclaimable land and the emergent land to another certified land conservation organization designated by the owner, his heirs, successors or assigns, or if none is designated within a reasonable time set by the executive director, by the executive director. If no other reasonably qualified certified land conservation organization will agree to accept such interests, then the certified land conservation organization shall be obligated to transfer or convey such rights to the state;

g. a restriction of the acquiring authority from transferring or otherwise conveying the land acquired pursuant to an agreement to anyone other than the state or another acquiring authority;

9. agreements involving the state as an acquiring authority shall include a restriction prohibiting the state from transferring or otherwise conveying the land acquired pursuant to an agreement to anyone other than an acquiring authority.

I. Initiation by Acquiring Authority or Owner. An acquiring authority or owner may request an agreement under this Section from the executive director. Unless otherwise agreed, any such request shall be in writing and shall state and fully explain the following:

1. the land proposed to be acquired by the acquiring authority and/or the land, water bottoms, and subsurface mineral interests sought to be included in the agreement. A plat depicting all such land, water bottoms, and subsurface mineral interests shall be attached;

2. the reasons that the acquiring authority or owner asserts that an agreement is appropriate;

3. the basis upon which the acquiring authority or owner asserts that the owner qualifies for an agreement under this Section. Copies of documentation evidencing the owner's title to the land or water bottoms sought to be included in the agreement, and to land providing the owner with reclamation rights, shall be attached. A title opinion may satisfy this requirement;

4. draft proposed memorandum of understanding stating the general terms sought for the agreement, including but not limited to all consideration, undertakings, performances, or concessions sought from the executive director or any interest owner or claimant in relation to the acquisition; any consideration, undertaking, performance, or concession intended to be provided or made by the acquiring authority or owner; and the nature, extent, and conditions of public access to and use of the surface lands and waters that will be permitted by the acquiring authority on the land and water bottom acquired, including for navigation, boating, commercial and recreational fishing, hunting, trapping, nature observation and study, and other traditional activities that are consistent with the principal purposes of the acquisition;

5. CD-ROM containing the proposed memorandum of understanding in Microsoft Word format or any other form of documentation or format approved by the executive director;

6. the identity of all persons owning or believed by the acquiring authority or owner to own any interest affecting the land or water bottoms sought to be included in the agreement, the nature and extent of the interest, and contact information for such person, regardless of whether the acquiring authority or owner believes the interest to be relevant or existing. The acquiring authority or owner shall make a thorough search of the public records and any other relevant source of knowledge for such interests. Copies of all documents indicating the existence or extent of such an interest shall be attached;

7. the identity of all persons holding or believed by the acquiring authority or owner to hold a claim adverse to the owner in relation to the land or water bottoms sought to be included in the agreement, the nature and extent of the claim, and contact information such holder, regardless of whether the acquiring authority or owner believes the claim to be relevant or meritorious. The acquiring authority or owner shall make a thorough search of the public records and any other relevant source of knowledge for such claims. Copies of all documents indicating the existence or extent of such a claim shall be attached;

8. any other contract executed or proposed by the acquiring authority or the owner in relation to the agreement sought from the executive director. A copy or draft of any such contract shall be attached;

9. documentation of the certification of the acquiring authority as a certified land conservation organization shall be attached, with respect to an entity asserting that it is an acquiring authority by virtue of such certification;

10. contact information for the person seeking the agreement, and designation of a single point of contact regarding the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:

§211. Publication, Approval, Execution, and Recordation of Agreement

A. Publication. When the executive director proposes to execute any agreement under this chapter, the executive director shall publish the proposed agreement as provided in the Administrative Procedures Act, R.S. 49:953. The agreement shall be published in the *Louisiana Register* at least once, the first publication of which shall be at least 100 days before the legislative bodies may act on it.

B. Review by Legislative Committees. At least 100 days after the first publication of the proposed agreement, the executive director shall submit it for review and approval to the House and the Senate Committees on Natural Resources.

C. Execution or Renegotiation by the Executive Director. Upon approval by the House and Senate Committees on Natural Resources, the executive director may execute the agreement.

1. If the House or Senate Committee on Natural Resources disapproves the agreement or request amendments, the executive director may renegotiate the agreement so as to meet the objections or amendments identified by such committee. The executive director may elect to discontinue negotiations and decline to enter into the agreement.

2. Upon successful renegotiation, the executive director shall republish and resubmit the renegotiated Agreement to the House and Senate Natural Resources Committees as set forth above.

D. Execution by the Commissioner. The commissioner of the Division of Administration shall also be a party to any agreement under this Chapter.

E. Recordation. Upon execution of an agreement by all parties thereto, the executive director shall provide a fully-executed copy of the agreement to each person that is a party thereto and the commissioner of the Division of Administration.

1. The owner or acquiring authority shall record the agreement in the conveyance records of all parishes in which property affected by the agreement is located.

2. Recording of an agreement in the conveyance records of all parishes in which the property affected by the agreement is located shall constitute public notice thereof for all purposes.

3. The owner or acquiring authority recording the agreement shall immediately provide certified copies thereof to the executive director and the Administrator of the Office of State Lands.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:

§213. Judicial Review

A. Any person aggrieved either by a substantive agency decision made pursuant to the provisions of this Chapter, including interlocutory decisions relating to boundaries and determinations of areas reclaimed, or by a failure of the agency to render such decisions timely, may seek immediate judicial review of the agency action. Proceedings for review of decisions by the CPRA may be instituted by filing a petition in the Nineteenth Judicial District Court within 30 days after mailing of notice of the final decision by the executive director. Any party may be granted a trial de novo if requested in the petition instituting the judicial review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1702.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 45:

Family Impact Statement

The proposed Rule will not have any effect on the stability of the family, the authority and rights of parents regarding the education and supervision of their children, the functioning of the family, family earnings and family budget, the behavior and personal responsibility of children, or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule does 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

All interested persons may submit comments relative to this proposed Rule, through January 10, 2019, to Harry Vorhoff, counsel for CPRA, at Post Office Box 44027, Baton Rouge, LA 70804.

Michael S. Ellison
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Coastal Mineral Agreements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to have any impact on costs or savings to state or local governmental entities. The proposed rule change implements the provisions of R.S. 41:1702 (D), which allows the Executive Director to enter into Coastal Mineral Agreements with coastal landowners to acquire or allow an authority to acquire certain surface rights in coastal lands and waters in order to facilitate the development, design engineering, implementation, operation, maintenance, or repair of integrated coastal protection projects by the Coastal Protection and Restoration Authority (CPRA) under R.S. 49:214.1 et seq. or other applicable law or projects for the Atchafalaya Basin Program.

In exchange for these surface rights, coastal landowners may maintain ownership of their mineral rights, in whole in or in part and in perpetuity or for a limited time, regardless of any subsequent erosion of existing coastal lands. With respect to currently eroded land that was privately owned but is now state-owned, the Executive Director of the CPRA can agree to allow a private landowner to regain his ownership of subsurface mineral rights if the eroded land emerges above the water line. The mineral rights would revert back to the State should the emergent land re-erode to become a part of a state-owned water bottom.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have a material impact on the revenue collections of state and local governmental units. The proposed rule change will allow the Executive Director of the CPRA to obtain surface rights needed for integrated coastal protection in exchange for continued private mineral ownership irrespective of surface condition. With respect to existing land, the Executive Director of the CPRA can agree to allow a private landowner to continue to own his subsurface mineral rights irrespective of future erosion.

The proposed rule change also allows the Executive Director of the CPRA to negotiate payments by the landowner to the local political subdivision or parish governing authority in lieu of taxes associated with any impacted surface rights conveyed to the state or an acquiring authority. The agreements are not anticipated to materially impact revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is anticipated to provide assurance and clarity to coastal Louisiana landowners concerning the ownership of mineral rights. In addition, the proposed rule change will allow CPRA's Executive Director to agree for landowners that previously lost the ownership of mineral rights to regain their ownership of these rights in the event the eroded land emerges above the water line.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Michael S. Ellison
Executive Director
1812#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Public Defender Board

Trial Court Performance Standards for Attorneys Representing Children in Delinquency
(LAC 22:XV.Chapter 13 and 15)

The Public Defender Board, a state agency within the Office of the Governor, proposes to amend and adopt LAC 22:XV.Chapter 13 and LAC 22:XV.Chapter 15, as authorized by R.S. 15:148. These proposed amended rules are promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

R.S. 148(A) directs the Public Defender Board to adopt rules creating mandatory: 1) statewide public defender standards and guidelines that require public defender services to be provided in a manner that is uniformly fair and consistent throughout the state; and 2) qualification standards for public defenders that ensure that public defender services are provided by competent counsel. The Louisiana Public Defender Board proposes to amend the provisions governing the performance standards for the representation of children in delinquency in order to account for legislative changes governing juvenile delinquency law and procedure, including changes that account for protections from mandatory reporter laws for certain employees or contractors of a defense attorney, important revisions to disposition law and procedure, and extensive expansion of post-dispositional rights and procedure. The performance standards are also amended to better reflect changing standards for juvenile defense, such as encouraging the practice of holistic defense when possible.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XV. Public Defender Board
Chapter 13. Trial Court Performance Standards for Attorneys Representing Children in Delinquency—Detention through Adjudication

§1301. Purpose

A. The Standards for Attorneys Representing Children in Delinquency Proceedings are intended to serve several purposes. First and foremost, the standards are intended to encourage district public defenders, assistant public defenders and appointed counsel to perform to a high standard of representation and to promote professionalism in the representation of children in delinquency proceedings.

B. The standards are also intended to alert defense counsel to courses of action that may be necessary, advisable, or appropriate, and thereby to assist attorneys in deciding upon the particular actions to be taken in each case to ensure that the client receives the best representation possible. The standards are further intended to provide a measure by which the performance of district public defenders, assistant public defenders and appointed counsel may be evaluated, including guidelines for proper documentation of files to demonstrate adherence to the standards, and to assist in training and supervising attorneys.

C. The language of these standards is general, implying flexibility of action that is appropriate to the situation. In those instances where a particular action is absolutely essential to providing quality representation, the standards use the word "shall." In those instances where a particular action is usually necessary to providing quality representation, the standards use the word "should." Even where the standards use the word "shall," in certain situations the lawyer's best informed professional judgment and discretion may indicate otherwise.

D. These standards are not criteria for the judicial evaluation of alleged misconduct of defense counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2599 (September 2011), amended LR 45:

§1303. Obligations of Defense Counsel

A. The primary and most fundamental obligation of the attorney representing a child client in a delinquency case is to provide zealous and effective representation for his or her client at all stages of the process. The defense attorney's duty and responsibility is to promote and protect the expressed interests of the child client. Attorneys also have an obligation to uphold the ethical standards of the Louisiana Rules of Professional Conduct, to act in accordance with the Louisiana Rules of the Court, and to properly document case files to reflect adherence to these standards.

B. The attorney who provides legal services for a child client owes the same duties of undivided loyalty, confidentiality and zealous representation to the child client as is due to an adult client. The attorney's personal opinion of the child client's guilt is not relevant to the defense of the case.

C. The attorney should communicate with the child client in a manner that will be effective, considering the child client's maturity, intellectual ability, language, educational level, special education needs, cultural background, gender, and physical, mental and emotional health. If appropriate, the attorney shall file a motion to have a foreign language or sign language interpreter appointed by the court and present at the initial interview and at all stages of the proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2599 (September 2011), amended LR 45:

§1305. Child Client's Expressed Preferences

A. The attorney shall represent the child client's expressed preferences and follow the child client's direction throughout the course of litigation. In addition, the attorney has a responsibility to counsel the child client and advise the client as to potential outcomes of various courses of action. The attorney shall refrain from substitution of his or her own view or the parents' wishes for the position of the child client. The use of the word *parent* hereafter refers to the parent, guardian, custodial adult or person assuming legal responsibility for the juvenile.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2599 (September 2011), amended LR 45:

§1307. Allocation of Authority between Child Client and Attorney

A. Certain decisions relating to the conduct of the case are ultimately for the child client and other decisions are ultimately for the attorney. The child client, after full consultation with counsel, is ordinarily responsible for determining:

1. whether to admit or deny the charges in the petition;

2. - 5. …

B. The attorney should explain that final decisions concerning trial strategy, after full consultation with the child client and after investigation of the applicable facts and law, are ultimately to be made by the attorney. The client should be made aware that the attorney is primarily responsible for deciding what motions to file, which witnesses to call, whether and how to conduct cross-examination, and what other evidence to present. Implicit in the exercise of the attorney's decision-making role in this regard is consideration of the child client's input and full disclosure by the attorney to the client of the factors considered by the attorney in making the decisions.

C. If a disagreement on significant matters of tactics or strategy arises between the lawyer and the child client, the lawyer should make a record of the circumstances, his or her advice and reasons, and the conclusion reached. This record should be made in a manner that protects the confidentiality of the attorney-client relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2600 (September 2011), amended LR 45:

§1308. Scope and Continuity of Representation

A. The attorney should consult with the child client and provide representation at the earliest stage of proceedings possible and, whenever possible, the same attorney should continue representing the child client through case closure, including in the post-disposition phase of proceedings. Whenever possible, the same attorney who represented a child client in a previous petition or matter should be assigned to represent the same child client in subsequent petitions.

B. The attorney should engage in holistic advocacy to the extent possible by counseling, advocating for or representing the child client in ancillary matters outside the delinquency system involving issues such as educational, mental health, or public benefits rights that may have a direct or indirect impact on the outcome of the delinquency proceedings. When direct advocacy is not possible due to a

lack of expertise, time or other resources, counsel should attempt to refer the child client to qualified advocates specializing in those ancillary matters if doing so is in keeping with the child client's expressed interests, and strategically does not jeopardize confidentiality or otherwise do harm to the child client's goals of representation.

C. The attorney should consider engaging the services of a diverse defense team including a social service practitioner to assess the client's and the client's family's social service needs, to counsel the child client, and to plan and coordinate services that will advance the child client's express interests in the case. Social service practitioners may be beneficial in presenting alternatives to detention, negotiating access to diversionary programs, presenting alternatives to custodial or probationary dispositions, modifying dispositions, and preventing recidivism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 45:

§1309. Basic Competency in Juvenile Proceedings

A. Before agreeing to defend a child client, an attorney has an obligation to make sure that he or she has sufficient time, resources, knowledge and experience to offer quality representation to the child client. Before an attorney defends a child client, the attorney should observe juvenile court, including every stage of a delinquency proceeding, and have a working knowledge of juvenile law and practice.

B. Prior to representing a child client, at a minimum, the attorney should receive training or be knowledgeable in the following areas:

1. relevant federal and state statutes, court decisions and the Louisiana court rules, including but not limited to:

a. - d. ...

e. The Prison Rape Elimination Act of 2003, 42 U.S.C. §15601 et seq.;

f. Prison Rape Elimination Act National Standards, 28 C.F.R. §115.5 et seq.*;*

g. state laws concerning privilege and confidentiality, public benefits, education and disabilities;

h. state laws and rules of professional responsibility or other relevant ethics standards; and

i. the Uniform Rules of the Courts of Appeal and any applicable local appellate rules.

2. - 6. …

C. The attorney should also be familiar with the subject matter of, and be prepared to research when necessary, the following areas of law when necessary and appropriate:

1. Family Education Rights Privacy Act (FERPA), 20 U.S.C. §1232g;

2. Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L., 104-192 § 264, 42 U.S.C. § 1320d-2 (in relevant part);

3. *Louisiana Administrative Code*, Title 28, Part XLIII (Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act) and Part CI (Bulletin 1508—Pupil Appraisal Handbook).

D. An attorney representing juveniles shall annually complete six hours of training relevant to the representation of juveniles. Additional training may include, but is not limited to:

1. adolescent mental health diagnoses and treatment, including the use of psychotropic medications;

2. how to read a psychological or psychiatric evaluation and how to use these in motions, including but not limited to those involving issues of consent and competency relating to Miranda warnings, searches and waivers;

3. normative childhood development (including brain development), developmental delays and mental retardation;

4. information on the multidisciplinary input required in child-related cases, including information on local experts who can provide consultation and testimony;

5. information on educational rights, including special educational rights and services and how to access and interpret school records and how to use them in motions, including but not limited to those related to consent and competency issues;

6. school suspension and expulsion procedures;

7. skills for communicating with children;

8. information gathering and investigative techniques;

9. use and application of the current assessment tool(s) used in the applicable jurisdiction and possible challenges that can be used to protect child clients;

10. immigration issues regarding children;

11. gang involvement and activity;

12. factors leading children to delinquent behavior, signs of abuse and/or neglect, and issues pertaining to status offenses; and

13. information on religious background and racial and ethnic heritage, and sensitivity to issues of cultural and socio-economic diversity, sexual orientation, and gender identity.

E. Individual lawyers who are new to juvenile representation should take the opportunity to practice under the guidance of a senior lawyer mentor. Correspondingly, experienced attorneys are encouraged to provide mentoring to new attorneys, assist new attorneys in preparing cases, debrief following court hearings, and answer questions as they arise.

F. If personal matters make it impossible for the defense counsel to fulfill the duty of zealous representation, he or she has a duty to refrain from representing the client. If it later appears that counsel is unable to offer effective representation in the case, counsel should move to withdraw.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2600 (September 2011), amended LR 45:

§1311. Basic Obligations

A. …

B. The attorney shall participate in all negotiations, discovery, pre-adjudication conferences, and hearings.

C. The attorney should confer with the juvenile within 48 hours of being appointed and prior to every court appearance to counsel the child client concerning the subject matter of the litigation, the child client's rights, the court system, the proceedings, the lawyer's role, and what to expect in the legal process.

D. The attorney should promptly inform the child client of his or her rights and pursue any investigatory or procedural steps necessary to protect the child client's interests throughout the process.

E. Upon initial review of the petition and initial communication with the client, the attorney should

determine whether legal issues exist that warrant the filing of pretrial motions and file appropriate pleadings.

F. The attorney should refrain from waiving substantial rights or making stipulations that are inconsistent with the child client's expressed interests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2601 (September 2011), amended LR 45:

§1313. Conflicts of Interest

A. The attorney shall be alert to all potential and actual conflicts of interest that would impair his or her ability to represent a child client. Loyalty and independent judgment are essential elements in the lawyer's relationship to a child client. Conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person, or from the lawyer's own interests. Each potential conflict shall be evaluated with the Louisiana Rules of Professional Conduct, particular facts and circumstances of the case, and the child client in mind. Where appropriate, attorneys may be obligated to contact the Office of Disciplinary Counsel to seek an advisory opinion on any potential conflicts.

B. Co-defendants are presumed to have a conflict of interest. Representation of co-defendants where the representation of one client will be directly adverse to another client, or there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer is a per se violation of the constitutional guarantee of effective assistance of counsel and the Louisiana Rules of Professional Conduct.

C. The attorney's obligation is to the child client. An attorney should not permit a parent or custodian to direct the representation. The attorney should not share information unless disclosure of such information has been approved by the child client. With the child client's permission, the attorney should maintain rapport with the child client's parent or guardian but should not allow that rapport to interfere with the attorney's duties to the child client or the expressed interests of the child client. Where there are conflicts of interests or opinions between the client and the client's parent or custodian, the attorney should not discuss the case with parents and shall not represent the views of a parent that are contrary to the child client's wishes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2601 (September 2011), amended LR 45:

§1315. Client Communications

A. The attorney shall keep the child client informed of the developments in the case and the progress of preparing the defense and should promptly comply with all reasonable requests for information.

B. Where the attorney is unable to communicate with the child client or his or her guardian because of language differences, the attorney shall take whatever steps are necessary to ensure that he or she is able to communicate with the client and that the client is able to communicate his or her understanding of the proceedings. Such steps should, if necessary and appropriate, include obtaining funds for an interpreter to assist with pre-adjudication preparation, interviews, and investigation, as well as in-court proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2601 (September 2011), amended LR 45:

§1317. Client Confidentiality

A. Juvenile defense counsel is bound by attorney-client confidentiality and privilege. The duty of confidentiality that the attorney owes the child client is coextensive with the duty of confidentiality that attorneys owe their adult clients.

B. The attorney should seek from the outset to establish a relationship of trust and confidence with the child client. The attorney should explain that full disclosure to counsel of all facts known to the child client is necessary for effective representation and, at the same time, explain that the attorney's obligation of confidentiality makes privileged the client's disclosures relating to the case.

C. There is no exception to attorney-client confidentiality in juvenile cases for parents or guardians. Juvenile defense counsel has an affirmative obligation to safeguard a child client's information or secrets from parents or guardians. Absent the child client's informed consent, the attorney's interviews with the client shall take place outside the presence of the parents or guardians. Parents or guardians do not have any right to inspect juvenile defense counsel's file, notes, discovery, or any other case-related documents without the client's express consent. While it may often be a helpful or even necessary strategy to enlist the parents or guardians as allies in the case, juvenile defense counsel's primary obligation is to keep the child client's secrets. Information relating to the representation of the child client includes all information relating to the representation, whatever its source. Even if revealing the information might allow the client to receive sorely-needed services, defense counsel is bound to protect the child client's confidences, unless the client gives the attorney explicit permission to reveal the information to get the particular services or disclosure is impliedly authorized to carry out the client's case objectives.

D. - D.6. …

E. Attorneys who use the services of a mental health or social service practitioner should be familiar with the practitioner's legal duties to report instances of child abuse, and the extent to which the attorney's duty of confidentiality or the attorney-client privilege extends to the mental health or social service practitioner. The attorney should also be familiar with the practitioner's obligations to report abuse under the codes of professional ethics that govern the practitioner's professional licensing. The attorney should use professional judgment in engaging the assistance of a mental health or social service practitioner, and when so engaged should take appropriate action to minimize the practitioner's obligation to report information that would otherwise be protected by the attorney client privilege or the attorney's duty of confidentiality.

F. In the event that the attorney or a member of the defense team discloses information relating to the representation of the client without the client's express or implied authorization pursuant to a professional obligation,

mandatory reporting statute, or other reason, the attorney should document the disclosure and the reasons therefor, should inform the client of the disclosure in an age- and developmentally-appropriate manner, and should consider whether the disclosure will render the attorney's continued representation of the client ineffective or whether the disclosure creates an actual or potential conflict of interests in continuing the representation, and take appropriate action pursuant to §1313 of this Part.

G. To observe the attorney's ethical duty to safeguard the child client's confidentiality, attorney-client interviews shall take place in a private environment. This limitation requires that, at the courthouse, juvenile defense counsel should arrange for access to private interview rooms, instead of discussing case specifics with the child client in the hallways; in detention facilities, juvenile defense counsel should have means to talk with the child client out of the earshot of other inmates and guards; and in the courtroom, juvenile defense counsel should ask for a private space in which to consult with the child client and speak with the child client out of range of any microphones or recording devices.

H. An attorney shall exercise discretion in revealing or discussing the contents of psychiatric, psychological, medical and social reports, tests or evaluations bearing on the child client's history or condition. In general, the lawyer should not disclose data or conclusions contained in such reports to the extent that, in the lawyer's judgment based on knowledge of the child client and the child client's family, the revelation would be likely to affect adversely the client's well-being or relationships within the family and disclosure is not necessary to protect the client's interests in the proceeding.

I. An attorney should ensure that communications with a client in an institution, including a detention center, are confidential. One way to ensure confidentiality is to stamp all mail as legal and confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2601 (September 2011), amended LR 45:

§1318. Confidentiality of Proceedings

A. The attorney should be familiar with the rules pertaining to the closure of proceedings. If necessary to protect the client's interests, an attorney shall ensure that any juvenile proceeding which is meant to be closed to the public remains so and, if necessary, shall request that the court order the courtroom cleared of any unnecessary individuals.

B. In cases where delinquency proceedings are public, to protect the confidential and sometimes embarrassing information involved, the attorney, in consultation with the child client, should move to close the proceedings or request the case to be called last on the docket when the courtroom is empty.

C. The media may report on certain delinquency cases. If a decision is made to speak to the media, the attorney should be cautious due to confidentiality, other Rules of Professional Conduct, the potential for inaccurate reporting and strategic considerations. The attorney representing a child client before the juvenile court should avoid personal publicity connected with the case, both during adjudication and thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 45:

§1321. Continuity of Representation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2602 (September 2011), repealed LR 45:

§1323. Stand-In Counsel

A. Any attorney appointed to stand in for another at any delinquency proceeding shall:

1. represent the child zealously as if the child is his or her own client;

2. request continuances if asked to conduct contradictory hearings or contested summary hearings for which the stand-in counsel is unprepared or for which the client has not consented to having stand-in counsel in place of regular counsel, and object on the record to holding such hearing;

3. ensure that the child knows how to contact stand-in counsel in case the child does not hear from the attorney of record;

4. immediately communicate with the attorney of record regarding upcoming dates/hearings, how to contact the child, placement of the child, nature of charges, and other timely issues that the attorney of record may need to know or address; and

5. immediately or within a reasonable time thereafter provide to the child's attorney of record all notes, documents, and any discovery received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2602 (September 2011), amended LR 45:

§1325. Caseloads

A. The attorney should not have such a large number of cases that he or she is unable to comply with these guidelines and the Louisiana Rules of Professional Conduct. Before agreeing to act as the attorney or accepting appointment by a court, the attorney has an obligation to make sure that he or she has sufficient time, resources, knowledge, and experience to offer quality legal services in a particular matter. If, after accepting an appointment, it later appears that the attorney is unable to offer effective representation, the attorney should consider appropriate case law and ethical standards in deciding whether to move to withdraw or take other appropriate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2602 (September 2011), amended LR 45:

§1327. State Social Work and Probation Personnel

A. Attorneys should cooperate with social workers and probation personnel and should instruct the client to do so, except to the extent such cooperation is or will likely become inconsistent with protection of the client's legitimate

interests in the proceeding or of any other rights of the client under the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2603 (September 2011), amended LR 45:

§1329. Detention

A. For purposes of appointment of counsel, children are presumed to be indigent. The attorney shall meet with a detained child client within 48 hours of notice of appointment or before the continued custody hearing, whichever is earlier, and shall take other prompt action necessary to provide quality representation, including:

1. personally reviewing the well-being of the child client and the conditions of the facility, and ascertaining the need for any medical or mental health treatment;

2. ascertaining whether the child client was arrested pursuant to a warrant or a timely determination of probable cause by a judicial officer;

3. making a motion for the release of the child client where no determination of probable cause has been made by a judicial officer within 48 hours of arrest or where the child client is held for on misdemeanor allegations committed before the age of 13; and

4. invoking the protections of appropriate constitutional provisions, federal and state laws, statutory provisions, and court rules on behalf of the child client, and revoking any waivers of these protections purportedly given by the child client, as soon as practicable via a notice of appearance or other pleading filed with the state and court.

B. Where the child client is detained, the attorney shall:

1. …

2. be familiar with the different types of pre-adjudication release conditions the court may set and whether private or public agencies are available to act as a custodian for the child client's release; and

3. …

C. The attorney shall attempt to secure the pre-adjudication release of the child client under the conditions most favorable and acceptable to the client unless contrary to the expressed wishes of the child client.

D. If the child client is detained, the attorney should try to ensure, by oral or written motion prior to any initial court hearing, that the child client does not appear before the judge in inappropriate clothing, shackles or handcuffs. If a juvenile court persists in the indiscriminate shackling of juvenile delinquents, the attorney should consider seeking supervisory review from an appellate court.

E. The attorney should determine whether a parent or other adult is able and willing to assume custody of the child client. Every effort should be made to locate and contact such a responsible adult if none is present at the continued custody hearing.

F. The attorney should identify and arrange the presence of to have witnesses to testify in support of release. This may include a minister or spiritual advisor, teacher, relative, other mentor or other persons who are willing to provide guidance, supervision and positive activities for the youth during release.

G. If the juvenile is released, the attorney should fully explain the conditions of release to the child client and advise him or her of the potential consequences of a violation of those conditions in developmentally appropriate language. If special conditions of release have been imposed (e.g., random drug screening) or other orders restricting the client's conduct have been entered (e.g., a no contact order), the client shall be advised of the legal consequences of failure to comply with such conditions in developmentally appropriate language.

H. The attorney shall be familiar with the detention facilities, particularly with any deficiencies related to the conditions of confinement and services available therein, and with the availability of community placements and services that could serve as alternatives to detention available for placement.

I. Where the child client is detained and unable to obtain pre-adjudication release, the attorney should be aware of any special medical, mental health, education and security needs of the child client and, in consultation with the child client, request that the appropriate officials, including the court, take steps to meet those special needs.

J. Following the continued custody hearing, the attorney should continue to advocate for release or expeditious placement of the child client. If the child client is not released, he or she should be advised of the right to have the placement decision reviewed or appealed.

K. Whenever the child client is held in some form of pre-adjudication detention, the attorney should visit the child client at least every two weeks and personally review his or her well-being, the conditions of the facility, and the opportunities to obtain release. Attorneys representing a child client who is held in a facility outside of the jurisdiction should consider using alternative methods of communication to the extent appropriate.

L. Whenever the child client is held in some form of pre-adjudication detention, the attorney should be prepared for an expedited adjudicatory hearing.

M. Where the child client is not able to obtain release under the conditions set by the court, counsel should consider pursuing modification of the conditions of release under the procedures available.

N. If the court sets conditions of release which require the posting of monetary bond or the posting of real property as collateral for release, counsel should strongly advocate that the court consider the presumptive indigent status of the juvenile and set a reasonable monetary bond within the family's ability to pay. Counsel should argue for an individualized bail amount, as opposed to a preset bail schedule used for adult offenders, and argue the bail criteria found in Children's Code article 824.

O. If the court sets conditions of release which require the posting of monetary bond or the posting of real property as collateral for release, counsel should make sure the child client understands the available options and the procedures that must be followed in posting such assets. Where appropriate, counsel should advise the child client and others acting in his or her behalf how to properly post such assets.

P. The lawyer should never personally guarantee the attendance or behavior of the child client or any other person, whether as surety on a bail bond or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2603 (September 2011), amended LR 45:

§1331. Initial Interview with Child Client

A. The attorney should conduct a client interview as soon as practicable in order to obtain the information necessary to provide quality representation at the early stages of the case and to provide the child client with information concerning the representation and the case proceedings. Establishing and maintaining a relationship with the child client is the foundation of quality representation. Irrespective of the child client's age, the attorney should consult with the child client well before each court hearing. The attorney shall explain to the client how to contact the attorney and should promptly comply with child client's requests for contact and assistance.

B. - C.3. …

D. The purposes of the initial interview are to provide the child client with information concerning the case and to acquire information from the child client concerning the facts of the case.

1. To provide information to the client, the attorney should specifically:

a. explain the nature of the attorney-client relationship to the child client, including the requirements of confidentiality;

b. explain the attorney-client privilege and instruct the child client not to talk to anyone about the facts of the case without first consulting with the attorney;

c. ensure the child client understands that he or she has the right to speak with his or her attorney;

d. - h. …

i. provide the names of any other persons who may be contacting the child client on behalf of the attorney;

j. …

k. discuss arrangements to address the child client's most critical needs (e.g., medical or mental health attention, request for separation during detention, or contact with family or employers); and

l. assess whether the child client is competent to proceed or has a disability that would impact a possible defense or mitigation.

2. For a child client who is detained, the attorney should also:

a. …

b. explain the type of information that will be requested in any interview that may be conducted by a pre-adjudication release agency, explain that the child client should not make statements concerning the offense, and explain that the right to not testify against oneself extends to all situations, including mental health evaluations; and

c. warn the child client of the dangers with regard to the search of client's cell and personal belongings while in custody and the fact that telephone calls, mail, and visitations may be monitored by detention officials.

3. The attorney or a representative of the attorney should collect information from the child client including, but not limited to:

a. the facts surrounding the charges leading to the child client's detention, to the extent the child client knows and is willing to discuss these facts;

b. the child client's version of the arrest, with or without a warrant; whether the child client was searched and if anything was seized, with or without warrant or consent; whether the child client was interrogated and if so, whether a statement was given; the child client's physical and mental status at the time any statement was given; whether any samples were provided, such as blood, tissue, hair, DNA, handwriting, etc., and whether any scientific tests were performed on the child client's body or bodily fluids;

c. - e. …

f. the child client's current living arrangements, family relationships, and ties to the community, including the length of time his or her family has lived at the current and former addresses, as well as the child client's supervision when at home;

g. …

h. the immigration status of the child client and his or her family members, if applicable;

i. the child client's educational history, including current grade level, attendance and any disciplinary history;

j. the child client's physical and mental health, including any impairing conditions such as substance abuse or learning disabilities, and any prescribed medications and other immediate needs;

k. the child client's delinquency history, if any, including arrests, detentions, diversions, adjudications, and failures to appear in court;

l. whether there are any other pending charges against the child client and the identity of any other appointed or retained counsel;

m. whether the child client is on probation (and the nature of the probation) or post-release supervision and, if so, the name of his or her probation officer or counselor and the child client's past or present performance under supervision;

n. the options available to the child client for release if the child client is in secure custody;

o. the names of individuals or other sources that the attorney can contact to verify the information provided by the child client and the permission of the child client to contact those sources;

p. the ability of the child client's family to meet any financial conditions of release (for clients in detention); and

q. where appropriate, evidence of the child client's competence to participate in delinquency proceedings and/or mental state at the time of the offense, including releases from the client for any records for treatment or testing for mental health or mental retardation.

E. Throughout the delinquency process, the attorney should take the time to:

1. keep the child client informed of the nature and status of the proceedings on an ongoing basis;

2. maintain regular contact with the child client during the course of the case and especially before court hearings;

3. review all discovery with the child client as part of the case theory development;

4. promptly respond to telephone calls and other types of contact from the child client, where possible, within one business day or a reasonable time thereafter;

5. counsel the child client on options and related consequences and decisions to be made; and

6. seek the lawful objectives of the child client and not substitute the attorney's judgment for that of the child client in those case decisions that are the responsibility of the child client. Where an attorney believes that the child client's desires are not in his or her best interest, the attorney should

discuss the consequences of the child client's position. If the child client maintains his or her position, the attorney should defend the child client's expressed interests vigorously within the bounds of the law.

F. In interviewing a child client, it is proper for the lawyer to question the credibility of the child client's statements or those of any other witness. The lawyer shall not, however, suggest expressly or by implication that the child client or any other witness prepare or give, on oath or to the lawyer, a version of the facts which is in any respect untruthful, nor shall the lawyer intimate that the child client should be less than candid in revealing material facts to the attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2603 (September 2011), amended LR 45:

§1333. Transfer to Adult Proceedings

A. The attorney shall be familiar with laws subjecting a child client to the exclusive jurisdiction of a court exercising criminal jurisdiction, including the offenses subjecting the child client to such jurisdiction. Counsel should seek to discover at the earliest opportunity whether transfer will be sought and, if so, the procedure and criteria according to which that determination will be made.

B. Upon learning that transfer will be sought or may be elected, the attorney should fully explain the nature of the proceeding and the consequences of transfer to the child client and the child client's parents. In so doing, counsel may further advise the child client concerning participation in diagnostic and treatment programs that may provide information material to the transfer decision.

C. - C.3. …

D. Where a district attorney may transfer the case either through indictment filed directly in adult court or by a finding of probable cause at a continued custody hearing in juvenile court, the attorney should present all facts and mitigating evidence to the district attorney to keep the child client in juvenile court. When a finding of probable cause triggers waiver of juvenile court jurisdiction automatically or at the discretion of the prosecutor, the attorney shall seek a postponement of the continued custody hearing and waive any time delays necessary to prepare adequately in order to mount an effective challenge to waive or to negotiate an alternative to waiver.

E. Where the district attorney makes a motion to conduct a hearing to consider whether to transfer the child client, the attorney should prepare in the same way and with as much care as for an adjudication. The attorney should:

1. conduct an in-person interview with the child client;

2. …

3. consider obtaining an expert witness to testify to the amenability of the child client to rehabilitation; and

4. present all facts and mitigating evidence to the court to keep the child client in juvenile court.

F. In preparing for a transfer hearing, the attorney should be familiar with all the procedural protections available to the child client including but not limited to discovery, cross-examination, compelling witnesses.

G. If the attorney who represented the child client in the delinquency court will not represent the child client in the adult proceeding, the delinquency attorney should ensure the new attorney has all the information acquired to help in the adult proceedings. If possible, the delinquency attorney should assist the new attorney, particularly if certain juvenile issues are to be litigated.

H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2605 (September 2011), amended LR 45:

§1335. Mental Health Examinations

A. Throughout a delinquency proceeding, either party may request or the judge may order a mental health examination of the child client. Admissions made during such examinations may not protected from disclosure. The attorney should ensure the child client understands the consequences of admissions during such examinations and advise the client that personal information about the child client or the child client's family may be revealed to the court or other personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2605 (September 2011), amended LR 45:

§1337. Mental Incapacity to Proceed

A. …

B. Although the client's expressed interests ordinarily control, the attorney should question capacity to proceed without the child client's approval or over the child client's objection, if necessary.

C. If, at any time, the child client's behavior or mental ability indicates that he or she may be incompetent, the attorney should consider filing a motion for a competency commission.

D. …

E. Prior to the evaluation by the commission, the attorney should request from the child client and provide to the commission all relevant documents including but not limited to the arrest report, prior psychological/psychiatric evaluations, school records and any other important medical records.

F. Where appropriate, the attorney should advise the client of the potential consequences of a finding of incompetence. Prior to any proceeding, the attorney should be familiar with all aspects of the evaluation and should seek additional expert advice where appropriate. If the competency commission's finding is that the child client is competent, where appropriate, the attorney should consider calling an independent mental health expert to testify at the competency hearing.

G. The attorney should be aware that the burden of proof is on the child client to prove incompetency and that the standard of proof is a preponderance of the evidence.

H. If the child client is found incompetent, the attorney should continue to represent the child client's expressed interest until the matter is resolved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2605 (September 2011), amended LR 45:

§1339. Insanity

A. …

B. If the attorney believes that the child client did not appreciate the consequences of his or her actions at the time of the offense, the attorney should consider filing for a sanity commission.

C. The attorney should advise the child client that if he or she is found not delinquent by reason of insanity, the court may involuntarily commit the child client to the Department of Health for treatment. The attorney should be prepared to advocate on behalf of the child client against involuntary commitment and provide other treatment options such as outpatient counseling or services.

D. The attorney should be prepared to raise the issue of sanity during all phases of the proceedings, if the attorney's relationship with the child client reveals that such a plea is appropriate.

E. The attorney should be aware that the child client has the burden of establishing the defense of insanity at the time of the offense by a preponderance of the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:

§1341. Manifestation of a Disability

A. Where the child client's actions that are the subject of the delinquency charge suggest a manifestation of a disability, the attorney should argue that the disability prevented the client from having the mental capacity or specific intent to commit the crime. Where appropriate, for school-based offenses, the attorney should argue that that the school did not follow the child client's individual education program, which could have prevented the client's behavior. The attorney should seek a judgment of dismissal or a finding that the juvenile is not delinquent. This information may also be used for mitigation at the time of disposition following a plea or a finding of delinquency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:

§1343. Ensure Official Recording of Court Proceedings

A. The attorney should take all necessary steps to ensure a full official recording of all aspects of the court proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:

§1345. Investigation

A. The child client's attorney shall conduct a prompt and diligent independent case investigation. The child client's admissions of responsibility or other statements to counsel do not obviate the need for investigation.

B. The attorney should ensure that the charges and disposition are factually and legally correct and the child client is aware of potential defenses to the charges.

C. The attorney should examine all charging documents to determine the specific charges that have been brought against the child client, including the arrest warrant, accusation and/or indictment documents, and copies of all charging documents in the case. The relevant statutes and precedents should be examined to identify the elements of the offense(s) with which the child client is charged, both the ordinary and affirmative defenses that may be available, any lesser included offenses that may be available, and any defects in the charging documents, constitutional or otherwise, such as statute of limitations or double jeopardy.

D. The attorney should seek investigators and experts, as needed, to assist the attorney in the preparation of a defense, in the understanding of the prosecution's case, or in the rebuttal of the prosecution's case. The attorney should avoid making herself the sole witness to information he or she anticipates introducing or needing to rebut at trial.

E. Where circumstances appear to warrant it, the lawyer should also investigate resources and services available in the community and, if appropriate, recommend them to the child client and child client's family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:

§1347. Diversion/Alternatives

A. The attorney should be familiar with diversionary programs and alternative solutions available in the community. Such programs may include diversion, mediation, or other alternatives that could result in a child client's case being dismissed or handled informally. When appropriate and available, the attorney shall advocate for the use of informal mechanisms that could divert the client's case from the formal court process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2606 (September 2011), amended LR 45:

§1349. Continued Custody Hearing

A. The attorney should take steps to see that the continued custody hearing is conducted in a timely fashion consistent with the prescribed time limits in the Children's Code unless there are strategic reasons for not doing so (e.g., when the offense charged would warrant an automatic transfer upon a finding of probable cause).

B. - B.4. …

5. the child client's custodial situation, including all persons living in the home;

6. - 7. …

C. If the child client is retained in custody and a petition not filed within the time period prescribed by the Children's Code, the attorney should request immediate release of the child client and other appropriate remedy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:

§1351. Appearance to Answer

A. The attorney should take steps to see that the answer hearing is conducted in a timely fashion consistent with the prescribed time limits in the Children's Code unless there are strategic reasons for not doing so.

B. The attorney should preserve the child client's rights at the appearance to answer on the charges by requesting a speedy trial, preserving the right to file motions, demanding discovery, and entering a plea of denial in most circumstances, unless there is a sound tactical reason for not doing so or the child client expresses an informed decision after having been thoroughly advised of both the consequences of entering an admission and alternative options.

C. Where appropriate, the attorney should arrange for the court to address any immediate needs of the child client, such as educational/vocational needs, emotional/mental/physical health needs, and safety needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:

§1353. Child Client's Right to Speedy Trial

A. The attorney should be aware of and protect the child client's right to a speedy trial under the Children's Code and constitutional law, unless strategic considerations warrant otherwise. Requests or agreements to continue a contested hearing date should not be made without consultation with the child client. The attorney shall diligently work to complete the investigation and preparation in order to be fully prepared for all court proceedings. In the event an attorney finds it necessary to seek additional time to adequately prepare for a proceeding, the attorney should consult with the child client and discuss seeking a continuance of the upcoming proceeding. Whenever possible, written motions for continuance made in advance of the proceeding are preferable to oral requests for continuance. All requests for a continuance should be supported by well-articulated reasons on the record in the event it becomes an appealable issue.

B. If the child client's adjudication hearing is set outside the applicable time limitation, once the time delay lapses the attorney shall file a motion to dismiss the petition. If this motion is denied by the juvenile court, the attorney shall make an adequate record and seek supervisory review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:

§1355. Discovery

A. - C.3. …

4. all oral and/or written statements by the child client, and the details of the circumstances under which the statements were made;

5. the prior delinquency record of the child client and any evidence of other misconduct that the government may intend to use against the accused;

C.6. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:

§1357. Theory of the Case

A. During the investigation and adjudication hearing preparation, the attorney should develop and continually reassess a theory of the case, and this theory should inform all motions practice and trial strategy in order to yield the best result.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:

§1359. Motions

A. The attorney should file motions, responses or objections as necessary to zealously represent the client. The attorney should consider filing an appropriate motion whenever there exists a good faith reason to believe that the child client is entitled to relief that the court has discretion to grant. The attorney should file motions as soon as possible due to the time constraints of juvenile court.

B. …

C. Among the issues that counsel should consider addressing in a motion include, but are not limited to:

1. the pre-adjudication custody of the child client;

2. the constitutionality of the implicated statute or statutes (in which case counsel should be mindful that the Attorney General must be served with a copy of such a motion);

3. the constitutionality of the implicated statute or statutes;

4. the potential defects in the charging process;

5. the sufficiency of the charging document;

6. the propriety and prejudice of any joinder of charges or defendants in the charging document;

7. the discovery obligations of the state and the reciprocal discovery obligations of the defense;

8. the suppression of evidence gathered as the result of violations of the Fourth, Fifth or Sixth Amendments to the United States Constitution, state constitutional provisions or statutes, including:

a. the fruits of illegal searches or seizures;

b. involuntary statements or confessions;

c. statements or confessions obtained in violation of the child client's right to an attorney, or privilege against self-incrimination; or

d. unreliable identification evidence that would give rise to a substantial likelihood of irreparable misidentification.

9. the suppression of evidence gathered in violation of any right, duty or privilege arising out of state or local law;

10. in consultation with the child client, a mental or physical examination of the child client;

11. relief due to mental incapacity, incompetency, mental retardation or mental illness;

12. access to resources or experts who may be denied to the child client because of his or her indigence;

13. the child client's right to a speedy trial;

14. the child client's right to a continuance in order to adequately prepare his or her case;

15. matters of evidence which may be appropriately litigated by means of a pre-adjudication motion in limine;

16. motion for judgment of dismissal; or

17. matters of adjudication or courtroom procedures, including inappropriate clothing or restraints of the client.

18. matters related to the conditions under which the child client is confined, including the implementation of a program of education or other services while in confinement.

D. The attorney should withdraw a motion or decide not to file a motion only after careful consideration, and only after determining whether the filing of a motion may be necessary to protect the child client's rights, including later claims of waiver or procedural default. The attorney has a continuing duty to file motions as new issues arise or new evidence is discovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2607 (September 2011), amended LR 45:

§1360. Interlocutory Writs of Review

A. Any interlocutory decision by the juvenile court is subject to the supervisory review of the Louisiana Courts of Appeal pursuant to an application for a writ of review. Writ applications from juvenile proceedings receive priority treatment and should be filed no later than 15 days from the date of the ruling at issue. Counsel should be familiar with the procedures for seeking supervisory writs, including the procedure for seeking an emergency writ of review.

B. If counsel files and argues an unsuccessful motion, counsel should strongly consider seeking supervisory review to the Louisiana Courts of Appeal. In situations where the court makes a spontaneous improper ruling, counsel should make an immediate oral motion in opposition, state any reasons for the opposition on the record, and notice an intention to seek supervisory writs on the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 45:

§1361. Plea Negotiations

A. The attorney should explore with the child client the possibility and desirability of reaching a negotiated disposition of the charges rather than proceeding to an adjudication, and in doing so, should fully explain the rights that would be waived by a decision to enter a plea and not to proceed to adjudication. After the attorney is fully informed on the facts and the law, he or she should, with complete candor, advise the child client concerning all aspects of the case, including counsel's frank estimate of the probable outcome. Counsel should not understate or overstate the risks, hazards or prospects of the case in order unduly or improperly to influence the child client's determination of his or her posture in the matter.

B. The attorney shall not accept any plea agreement without the child client's express authorization.

C. …

D. The attorney should participate in plea negotiations to seek the best result possible for the child client consistent with the child client's interests and directions to the attorney. The attorney should consider narrowing contested issues or reaching global resolution of multiple pending cases. Prior to entering into any negotiations, the attorney shall have sufficient knowledge of the strengths and weaknesses of the child client's case, or of the issue under negotiation, enabling the attorney to advise the child client of the risks and benefits of settlement.

E. In conducting plea negotiations, the attorney should be familiar with:

1. the various types of pleas that may be agreed to, including an admission, a plea of nolo contendere, and a plea in which the child client is not required to personally acknowledge his or her guilt (Alford plea);

2. the advantages and disadvantages of each available plea according to the circumstances of the case including collateral consequences of a plea;

3. …

4. whether the plea is expungable; and

5. whether the plea will subject the child client to requirements to register as a sex offender.

F. …

G. In preparing to enter a plea before the court, the attorney should explain to the child client the nature of the plea hearing and prepare the child client for the role he or she will play in the hearing, including answering questions of the judge and providing a statement concerning the offense and the appropriate disposition. Specifically, the attorney should:

1. …

2. make certain that the child client understands the rights he or she will waive by entering the plea and that the child client's decision to waive those rights is knowing, voluntary and intelligent; and

3. be satisfied that the plea is voluntary and that the child client understands the nature of the charges;

H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2608 (September 2011), amended LR 45:

§1365. Preparing the Child Client for Hearings

A. The attorney should explain to the child client, in a developmentally appropriate manner, what is expected to happen before, during and after each hearing.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2609 (September 2011), amended LR 45:

§1367. Adjudication Preparation

A. - B. …

C. The attorney should decide if it is beneficial to secure an advance ruling on issues likely to arise at trial (e.g., use of prior adjudications to impeach the child client) and, where appropriate, the attorney should prepare motions and memoranda for such advance rulings.

D. The attorney should take steps to see that the adjudication hearing is conducted in a timely fashion consistent with the prescribed time limits in the Children's Code for conducting the hearing unless there are strategic reasons for not doing so, and should request appropriate relief for failure to follow the prescribed time limits.

E. Throughout the adjudication process, the attorney should endeavor to establish a proper record for appellate review. The attorney shall be familiar with the substantive and procedural law regarding the preservation of legal error for appellate review and should ensure that a sufficient record is made to preserve appropriate and potentially meritorious legal issues for such appellate review unless there are strategic reasons for not doing so.

F. Where necessary, the attorney should seek a court order to have the child client available for conferences.

G. Throughout preparation and adjudication, the attorney should consider the potential effects that particular actions may have upon sentencing if there is a finding of delinquency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2609 (September 2011), amended LR 45:

§1369. Objections

A. The attorney should make appropriate motions, including motions in limine and evidentiary and other objections, to advance the child client's position at adjudication or during other hearings. The attorney should be aware of the burdens of proof, evidentiary principles and court procedures applying to the motion hearing. If necessary, the attorney should file briefs in support of evidentiary issues. Further, during all hearings, the attorney should preserve legal issues for appeal, as appropriate.

B. Control of proceedings is principally the responsibility of the court, and the lawyer should comply promptly with all rules, orders, and decisions of the judge. Counsel has the right to make respectful requests for reconsideration of adverse rulings and has the duty to set forth on the record adverse rulings or judicial conduct that the attorney considers prejudicial to the child client's legitimate interests.

C. The attorney should be prepared to object to the introduction of any evidence damaging to the child client's interests if counsel has any legitimate doubt concerning its admissibility under constitutional or local rules of evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2609 (September 2011), amended LR 45:

§1373. Opening Statements

A. Counsel should prepare and request to make an opening statement to provide an overview of the case unless a strategic reason exists for not doing so. The attorney should be familiar with the law and the individual trial judge's rules regarding the permissible content of an opening statement. The attorney should consider the strategic advantages and disadvantages of disclosure of particular information during the opening statement and of deferring the opening statement until the beginning of the defense case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2609 (September 2011), amended LR 45:

§1377. Stipulations

A. The attorney should consider the advantages and disadvantages of entering into stipulations concerning the prosecution's case. The attorney should not enter into any stipulations detrimental to the client's expressed goals of the representation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2610 (September 2011), amended LR 45:

§1379. Cross-Examination

A. Counsel should use cross-examination strategically to further the theory of the case. In preparing for cross-examination, the attorney should be familiar with the applicable law and procedures concerning cross-examinations and impeachment of witnesses. In order to develop material for impeachment or to discover documents subject to disclosure, the attorney should be prepared to question witnesses as to the existence of prior statements that they may have made or adopted.

B. - B.12. …

C. The lawyer should be prepared to examine fully any witness whose testimony is damaging to the child client's interests.

D. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2610 (September 2011), amended LR 45:

§1383. Defense Strategy

A. The attorney should develop, in consultation with the child client, an overall defense strategy. In deciding on a defense strategy, the attorney should consider whether the child client's legal interests are best served by not putting on a defense case, and instead relying on the prosecution's failure to meet its constitutional burden of proving each element beyond a reasonable doubt. In developing and presenting the defense case, the attorney should consider the implications it may have for a rebuttal by the prosecutor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2610 (September 2011), amended LR 45:

§1387. Direct Examination

A. - A.3. …

4. consider the possible use of character witnesses, to the extent that use of character witnesses does not allow the prosecution to introduce potentially harmful evidence against the child client;

5. - 7. …

8. after the state's presentation of evidence and a discussion with the child client, make the decision whether to call any witnesses.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2610 (September 2011), amended LR 45:

§1389. Child Client's Right to Testify

A. The attorney shall respect the child client's right to decide whether to testify.

B. The attorney shall discuss with the child client all of the considerations relevant to the child client's decision to testify. This advice should include consideration of the child client's need or desire to testify, any repercussions of testifying, the necessity of the child client's direct testimony, the availability of other evidence or hearsay exceptions that may substitute for direct testimony by the child client, and the child client's developmental ability to provide direct testimony and withstand possible cross-examination.

C. The attorney should be familiar with his or her ethical responsibilities that may be applicable if the child client insists on testifying untruthfully. If the child client indicates an intent to commit perjury, the attorney shall advise the child client against taking the stand to testify falsely and, if necessary, take appropriate steps to avoid lending aid to perjury. If the child client persists in a course of action involving the attorney's services that the attorney reasonably believes is criminal or fraudulent, the attorney should seek the leave of the court to withdraw from the case. If withdrawal from the case is not feasible or is not permitted by the court, or if the situation arises during adjudication without notice, the attorney shall not lend aid to perjury or use the perjured testimony. The attorney should maintain a record of the advice provided to the child client and the child client's decision concerning whether to testify.

D. The attorney should protect the child client's privilege against self-incrimination in juvenile court proceedings. When the child client has elected not to testify, the lawyer should be alert to invoke the privilege and should insist on its recognition unless the client competently decides that invocation should not be continued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:

§1391. Preparing the Child Client to Testify

A. If the child client decides to testify, the attorney should prepare the child client to testify. This should include familiarizing the child client with the courtroom, court procedures, and what to expect during direct and cross-examination. If possible, prior to the adjudication hearing the attorney should conduct a mock direct and cross-examination on the child client with a separate attorney acting as prosecutor. Often the decision whether to testify may change at trial. Thus, the attorney should prepare the case for either contingency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:

§1393. Questioning the Child Client

A. The attorney should seek to ensure that questions to the child client are phrased in a developmentally appropriate manner. The attorney should object to any inappropriate questions by the court or an opposing attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:

§1395. Closing Arguments

A. Counsel shall prepare a closing argument and shall deliver it at the conclusion of the hearing unless there is a strategic reason not to do so. The attorney should be familiar with the court rules, applicable statutes and law, and the individual judge's practice concerning time limits and objections during closing argument, and provisions for rebuttal argument by the prosecution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), LR 45:

§1397. Motion for a New Trial

A. - B.1. …

2. the effect that such a motion might have upon the client's appellate rights, including whether the filing of such a motion is necessary to, or will assist in, preserving the child client's right to raise on appeal the issues that might be raised in the new trial motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:

§1399. Expungement

A. The attorney should inform the child client of any procedures available for requesting that the record of conviction be expunged or sealed. The attorney should explain that some contents of juvenile court records may be made public (e.g., when a violent crime has been committed) and that there are limitations on the expungement of records.

B. The attorney should provide assistance with the expungement procedure if requested, when the client appears eligible for expungement, including active representation of the child client in any hearing related to the expungement request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:

Chapter 15. Trial Court Performance Standards for Attorneys Representing Children in Delinquency Proceedings—Post-Adjudication

§1501. Post-Adjudication Placement Pending Disposition

A. Following the entry of an adjudication, the attorney should be prepared to argue for the least restrictive environment for the child client pending disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2611 (September 2011), amended LR 45:

§1503. Defense's Active Participation in Designing the Disposition

A. The active participation of the child client's attorney at disposition is essential. In many cases, the attorney's most

valuable service to the child client will be rendered at this stage of the proceeding. Counsel should have the disposition hearing held on a subsequent date after the adjudication, unless there is a strategic reason for waiving the delay between adjudication and disposition.

B. …

C. The attorney should not make or agree to a specific dispositional recommendation without the child client's consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2612 (September 2011), amended LR 45:

§1505. Obligations of Counsel Regarding Disposition

A. The child client's attorney should prepare for a disposition hearing as the attorney would for any other evidentiary hearing, including the consideration of calling appropriate witnesses and the preparation of evidence in mitigation of or support of the recommended disposition. Among the attorney's obligations regarding the disposition hearing are:

1. to ensure all information presented to the court which may harm the child client and which is not accurate and truthful or is otherwise improper is stricken from the text of the predisposition investigation report;

2. to develop a plan which seeks to achieve the least restrictive and burdensome sentencing alternative that is most acceptable to the child client, and which can reasonably be obtained based on the facts and circumstances of the offense, the child client's background, the applicable sentencing provisions, and other information pertinent to the disposition;

3. to ensure all reasonably available mitigating and favorable information, which is likely to benefit the child client, is presented to the court;

4. to consider preparing a letter or memorandum to the judge or juvenile probation officer that highlights the child client's strengths and the appropriateness of the disposition plan proposed by the defense; and

A.5. - D.3. …

4. the right of the child client to speak prior to receiving the disposition;

5. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2612 (September 2011), amended LR 45:

§1507. Preparing the Child Client for the Disposition Hearing

A. In preparing for the disposition hearing, counsel should consider the need to:

1. explain to the child client the nature of the disposition hearing, the issues involved, the applicable sentencing requirements, disposition options and alternatives available to the court, and the likely and possible consequences of the disposition alternatives;

2. explain fully and candidly to the child client the nature, obligations, and consequences of any proposed dispositional plan, including the meaning of conditions of probation or conditional release, the characteristics of any institution to which commitment is possible, and the probable duration of the child client's responsibilities under the proposed dispositional plan;

3. obtain from the child client relevant information concerning such subjects as his or her background and personal history, prior criminal or delinquency record, employment history and skills, education, and medical history and condition, and obtain from the child client sources through which the information provided can be corroborated;

4. prepare the child client to be interviewed by the official preparing the predisposition report, including informing the child client of the effects that admissions and other statements may have upon an appeal, retrial or other judicial proceedings, such as forfeiture or restitution proceedings;

5. …

6. when psychological or psychiatric evaluations are ordered by the court or arranged by the attorney prior to disposition, the attorney should explain the nature of the procedure to the child client and the potential lack of confidentiality of disclosures to the evaluator;

7. ensure the child client has adequate time to examine the predisposition report, if one is utilized by the court; and

8. maintain regular contact with the child client prior to the disposition hearing and inform the client of the steps being taken in preparation for disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2612 (September 2011), amended LR 45:

§1509. Predisposition Report

A. Where the court uses a predisposition report, counsel should be familiar with the procedures concerning the preparation, submission, and verification of the predisposition report. Counsel should be prepared to use the predisposition report in defense of the child client.

B. Counsel should be familiar with the practices of the officials who prepare the predisposition report and the defendant's rights in that process, including access to the predisposition report by the attorney and the child client, and ability to waive such a report, if it is in the child client's interest to do so.

C. Counsel should provide to the official preparing the report relevant information favorable to the client, including, where appropriate, the child client's version of the alleged act. Counsel should also take appropriate steps to ensure that erroneous or misleading information which may harm the child client is deleted from the report and to preserve and protect the child client's interests, including requesting that a new report be prepared with the challenged or unproven information deleted before the report or memorandum is distributed to the Office of Juvenile Justice or treatment officials.

D. In preparation for a disposition hearing, the attorney should ensure receipt of the disposition report no later than 72 hours prior to the disposition hearing. Upon receipt of this report, the attorney should review the report with the client, ensure its accuracy and prepare a response to the report. Counsel should prepare a written dispositional plan that counsel and the client agree will best achieve the client's dispositional goals. Counsel should consider consulting with

social service experts or other appropriate experts to develop the dispositional plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2613 (September 2011), amended LR 45:

§1511. Prosecution's Disposition Position

A. The attorney should attempt to determine, unless there is a sound tactical reason for not doing so, whether the prosecution will advocate that a particular type or length of disposition be imposed and attempt to persuade the district attorney to support the child client's requested disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2613 (September 2011), amended LR 45:

§1513. Disposition Hearing

A. The attorney should take steps to see that the disposition hearing is conducted in a timely fashion consistent with the prescribed time limits in the Children's Code for conducting the disposition hearing unless there are strategic reasons for not doing so, and should request appropriate relief for failure to follow the prescribed time limits.

B. The attorney should be prepared at the disposition hearing to take the steps necessary to advocate fully for the requested disposition and to protect the child client's interest.

C. Where the dispositional hearing is not separate from adjudication or where the court does not have before it all evidence required by statute, rules of court or the circumstances of the case, the lawyer should seek a continuance until such evidence can be presented if to do so would serve the child client's interests.

D. The lawyer at disposition should examine fully and, where possible, impeach any witness whose evidence is damaging to the child client's interests and to challenge the accuracy, credibility, and weight of any reports, written statements, or other evidence before the court. The lawyer should not knowingly limit or forego examination or contradiction by proof of any witness, including a social worker or probation department officer, when failure to examine fully will prejudice the child client's interests. Counsel should seek to compel the presence of witnesses whose statements of fact or opinion are before the court or the production of other evidence on which conclusions of fact presented at disposition are based.

E. Where information favorable to the child client will be disputed or challenged, the attorney should be prepared to present supporting evidence, including testimony of witnesses, to establish the facts favorable to the child client.

F. Where the court has the authority to do so, counsel should request specific recommendations from the court concerning the place of detention, probation or suspension of part or all of the sentence, psychiatric treatment or drug rehabilitation.

G. During the hearing if the court is indicating a commitment is likely, the attorney should attempt to ensure that the child client is placed in the most appropriate, least restrictive placement available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2613 (September 2011), amended LR 45:

§1515. Post-disposition Counseling

A. When a disposition order has been entered, it is the attorney's duty to explain the nature, obligations and consequences of the disposition to the child client and to urge upon the child client the need for accepting and cooperating with the dispositional order. The child client should also understand the consequences of a violation of the order.

B. Where the court places the child client in the custody of the Office of Juvenile Justice, with the child client's permission and a parent's written release, the attorney should do the following:

1. assert the child client's rights to subsequent review hearings as provided by law;

2. provide the Office of Juvenile Justice with a copy of the child client's education records; and

3. advise the child client on his rights to continued representation post-disposition.

C. If appeal from either the adjudicative or dispositional decree is contemplated, the child client should be advised of that possibility, and the attorney shall do the following:

1. counsel compliance with the court's decision during the interim; and

2. request that any order of commitment be stayed pending appeal, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2613 (September 2011), amended LR 45:

§1517. Reviewing or Drafting Court Orders

A. Counsel's attorney should review all written orders or when necessary draft orders to ensure that the child client's interests are protected, to ensure the orders are clear and specific, and to ensure the order accurately reflects the court's oral pronouncement and complies with the applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:

§1519. Monitoring the Child Client's Post-disposition Detention

A. The attorney should monitor the child client's post-disposition detention status and ensure that the child client is placed in a commitment program in a timely manner as provided by law, that the child client is receiving appropriate or required rehabilitative services, that the child client is receiving appropriate educational services, and that the child client is physically, mentally, and emotionally safe in the child client's facility.

B. When a child client is committed to a program, the attorney shall provide the child client information on how to contact the attorney to discuss concerns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:

§1521. Post-Disposition Representation

A. The lawyer's responsibility to the child client does not end with the entry of a final dispositional order. Louisiana law entitles juveniles to representation at every stage of the proceeding, including post-disposition matters. The attorney should be prepared to counsel and render or assist in securing appropriate legal services for the child client in matters arising from the original proceeding.

B. The lawyer should conduct post-dispositional proceedings according to the principles generally governing representation in juvenile court matters. The attorney should be prepared to actively participate in hearings regarding probation status or conditions, conditions of confinement, and post-dispositional services. When a child client is committed to a program and the attorney receives notice of an Office of Juvenile Justice transfer staffing or decision, the attorney should review and challenge the decision and, if appropriate, bring the matter to the trial court.

C. The lawyer should monitor the child client's progress in secure care and when appropriate file necessary motions for modification of disposition on behalf of the child client.

D. In providing representation with respect to post-dispositional proceedings, the attorney should do the following:

1. Contact both the child client and the agency or institution involved in the disposition plan at regular intervals in order to ensure that the child client's rights are respected and, where necessary, to counsel the child client and the child client's family concerning the dispositional plan. The attorney should actively seek court intervention when the child client is subjected to inappropriate treatment or conditions or when the child client's rights are violated.

2. Prepare for hearings, whether the review is sought by the child client or is a review hearing provided by law, by conducting an appropriate investigation including the following:

a. request and review documents from the child client's probation file or Office of Juvenile Justice file;

b. interview the child client and the child client's collateral contacts, including the adult or adults who are expected to assume custody of the child client when the child client is released from custody or supervision, or to provide re-entry support if the child client has reached the age of majority while in custody;

c. In consultation with the child client and available social services or other appropriate professionals, decide an appropriate plan for post-dispositional proceedings, including:

i. Whether to request a modification of disposition, including termination of probation, release from state custody or step-down to non-secure custody;

ii. Whether to request a modification of conditions of confinement or a modification of conditions of probation; and

d. Attempt to determine, unless there is a sound tactical reason for not doing so, the prosecution's position with respect to the hearing and attempt to persuade the district attorney to support the child client's position with respect to the hearing.

3. Conduct any post-dispositional hearings according to the principles generally governing representation in juvenile court matters including the following:

a. Develop, in consultation with the child client, a theory of the hearing and a plan for presenting and advancing the theory, including the presentment of friendly witnesses and documentation;

b. Request a contradictory hearing when necessary to establish disputed facts, develop evidence, or assert the child client's rights;

c. In a contradictory hearing, examine fully and, where possible, impeach any witness whose evidence is damaging to the child client's interests and to challenge the accuracy, credibility, and weight of any reports, written statements, or other evidence before the court. The lawyer should not knowingly limit or forego examination or contradiction by proof of any witness, including a social worker or probation department officer, when failure to examine fully will prejudice the child client's interests. Counsel should seek to compel the presence of witnesses whose statements of fact or opinion are before the court or the production of other evidence on which conclusions of fact presented at disposition are based.

d. Present supporting evidence, including testimony of witnesses, to establish the facts favorable to the child client.

e. Advocate for the child client's interests in argument, whether in summary hearing or contradictory hearing.

E. Where the lawyer is aware that the child client or the child client's family needs and desires community or other medical, psychiatric, psychological, social or legal services, he or she may render assistance in arranging for such services.

F. Even after an attorney's representation in a case is complete, the attorney should comply with a child client's reasonable requests for information and materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:

§1523. Child Client's Right to Appeal

A. Following a delinquency adjudication, the attorney should inform the child client of his or her right to appeal the judgment of the court and the action that must be taken to perfect an appeal. This discussion should include the details of the appellate process including the time frames of decisions, the child client's obligations pending appeal, and the possibility of success on appeal.

B. Counsel representing the child client following a delinquency adjudication should promptly undertake any factual or legal investigation in order to determine whether grounds exist for relief from juvenile court or administrative action. If there is reasonable prospect of a favorable result, the lawyer should advise the child client of the nature, consequences, probable outcome, and advantages or disadvantages associated with such proceedings.

C. After disposition, the attorney should consider filing a motion to reconsider the disposition. The attorney should consider an appeal of the disposition where appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:

§1525. Counsel's Participation in Appeal

A. …

B. Whether or not trial counsel expects to conduct the appeal, he or she shall promptly inform the child client of the right to appeal and take all steps necessary to protect that right until appellate counsel is substituted or the child client decides not to exercise this privilege.

C. If after such consultation and if the child client wishes to appeal the order, the lawyer should take all steps necessary to perfect the appeal and seek appropriate temporary orders or extraordinary writs necessary to protect the interests of the client during the pendency of the appeal.

D. In circumstances where the child client wants to file an appeal, the attorney should file the notice in accordance with the rules of the court and take such other steps as are necessary to preserve the defendant's right to appeal, such as ordering transcripts of the trial proceedings.

E. Where the child client indicates a desire to appeal the judgment and/or disposition of the court, counsel should consider requesting a stay of execution of any disposition, particularly one involving out-of-home placement or secure care. If the stay is denied, the attorney should consider appealing the stay. The attorney should also inform the child client of any right that may exist to be released on bail pending the disposition of the appeal. Where an appeal is taken and the child client requests bail pending appeal, trial counsel should cooperate with appellate counsel in providing information to pursue the request for bail.

F. Where the child client takes an appeal, trial counsel should cooperate in providing information to appellate counsel (where new counsel is handling the appeal) concerning the proceedings in the trial court.

G. Where there exists an adequate pool of competent counsel available for assignment to appeals from juvenile court orders and substitution will not work substantial disadvantage to the child client's interests, new counsel may be appointed in place of trial counsel.

H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2614 (September 2011), amended LR 45:

§1527. Probation Revocation Representation

A. Trial counsel should be prepared to continue representation if revocation of the child client's probation or parole is sought, unless new counsel is appointed.

B. The attorney appointed to represent the child client charged with a violation of probation should prepare in the same way and with as much care as for an adjudication. The attorney should:

1. conduct an in-person interview with the child client;

2. - 3. …

4. consider reviewing the child client's participation in mandated programs; and

5. …

C. In preparing for a probation revocation, the attorney should be familiar with all the procedural protections available to the child client including but not limited to discovery, cross-examination, compelling witnesses and timely filing of violations.

D. When representing a child client in a revocation of probation hearing who was not a client of the attorney at the initial adjudication, the attorney should find out if the child client was represented by an attorney in the underlying offense for which the child client was placed on probation. The attorney may have an argument if the child client entered an admission without counsel and did not give a valid waiver of counsel.

E. The attorney should prepare the child client for the probation revocation hearing including the possibility of the child client or parent being called as witnesses by the State. The attorney should also prepare the child client for all possible consequences of a decision to enter a plea or the consequences of a probation revocation.

F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2615 (September 2011), amended LR 45:

§1529. Challenges to the Effectiveness of Counsel

A. Where a lawyer appointed or retained to represent a child client previously represented by other counsel has a good faith belief that prior counsel did not provide effective assistance, the child client should be so advised and any appropriate relief for the child client on that ground should be pursued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:148

HISTORICAL NOTE: Promulgated by the Office of the Governor, Public Defender Board, LR 37:2615 (September 2011), amended LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed Rule on the family has been considered. It is anticipated that the proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by helping to ensure that indigent parents and/or their children will receive quality legal representation in delinquency proceedings, thereby helping the family unit during a time of crisis.

Poverty Impact Statement

The impact of the proposed Rule should not have any 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 the effect on: the effect on household income, assets, and financial security; the effect on early childhood development and preschool through postsecondary education development; the effect on employment and workforce development; the effect on taxes and tax credits; and the effect on child and dependent care, housing health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In accordance with R.S. 49:965.6, the Louisiana Public Defender Board has conducted a Regularity Flexibility

Analysis and found that the proposed Rule will have negligible impact on small businesses.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on: the effect on the staffing level requirements or qualifications required to provide the same level of service; the total direct and indirect effect on the cost to the providers to provide the same level of service; or the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments until 4:30 pm, January 9, 2019, to James T. Dixon, Jr., State Public Defender, Louisiana Public Defender Board, 301 Main Street, Suite 700, Baton Rouge, LA 70825.

Public Hearing

A public hearing on the proposed Rule is scheduled for January 25, 2019, at 10 a.m., 301 Main Street, Suite 700, Baton Rouge, LA 70825. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

James T. Dixon
State Public Defender

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Trial Court Performance Standards for Attorneys Representing Children in Delinquency

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any implementation costs or savings for the Louisiana Public Defender Board (LPDB) but may result in increased workload for certain individual district public defenders.

The proposed rule changes revise attorney performance standards and guidelines, codify recent changes in the law, and make technical changes related to the representation of child clients in delinquency proceedings. The amended standards account for changes in the law governing juvenile delinquency and procedure, including changes that account for protections from mandatory reporter laws for certain employees or contractors of a defense attorney, revisions to disposition law and procedure, and expansion of post-dispositional rights and procedure. The performance standards are also amended to better reflect changing standards for juvenile defense, such as encouraging the practice of holistic defense when possible. To the extent these revisions place new requirements on district defenders representing child clients, the proposed rule changes may result in a workload increase for district offices.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may result in economic benefits for indigent defendants who rely on the public defense system to the extent the changes to attorney performance standards result in better representation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no effect on competition and employment.

James T. Dixon, Jr.
State Public Defender
1812#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 113, Chapter 3, 703, 907, 1103, 1307, 1503, 2503, Chapter 31 and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 2019 (2020 Orleans Parish) tax year.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parent Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in these Proposed Rules. Implementation of this proposed Rule will have no effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

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 Rule until 4 p.m., January 9, 2019, at the following address: Teri Callender, TC Property Tax Specialist, Louisiana Tax Commission, P.O. Box 66788, Baton Rouge, LA 70896.

Public Hearing

A public hearing on this proposed Rule will be scheduled for Thursday, January 24, 2019, at 10 am, at the Louisiana State Capitol, 900 North Third St., Baton Rouge, LA 70802.

Lawrence E. Chehardy
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Taxation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules reflect annual changes in valuation procedures for taxation purposes based on the most recent available data. There are no estimated costs or savings associated with the proposed rules for state governmental units. An impact to local governmental workload resulting in an additional administrative costs will occur, but is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in an increase of approximately $15,280,000 in revenue collections for local governments based upon revisions to valuation tables increasing real and personal property assessments by aproximately 1.6% in total. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset pursuant to millage adjustment provisions of Article VII, Section 23 of the state Constitution.

On average, these revisions will generally increase certain 2019 real and personal property assessments for property of similar age and condition in comparison with the latest available equivalent assessments. However, the assessments of certain property types will increase compared to prior year. Composite multiplier tables for assessment of most personal property will increase by an estimated 0.3%. Specific valuation tables for assessment of pipelines will increase by an estimated 3.7% (Onshore increase by an estimated 4.2% and Offshore increase by an estimated 3.2%). Oil & gas wells will increase by an estimated 7.4% (Region 1 by 7.6%, Region 2 by 7.3% and Region 3 by 7.3%). Drilling rigs will increase by an estimated 1.6% (Land rigs by 2.9%, Jack-Ups by 1%, Semisubmersible Rigs by 1% and Well Service Land Only Rigs no change). The net effect determined by averaging these revisions is estimated to increase assessments by 1.6% and estimated local tax collections by $15,280,000 in FY 19/20 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

Additionally, assessment fee increases on insurance companies and financial institutions, pursuant to Act 120 of the 2018 Regular Session, will result in an estimated $120,000 of additional state fee revenue that will be dedicated to the Tax Commission Expense Fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The effects of these new rules on assessments of individual items of equivalent real and personal property will generally be lower in the aggregate in 2019 compared to the last year of actual data. Specific assessments of real and personal property will depend on the age and condition of the property subject to assessment. Taxpayers will be impacted based on the changes to the valuation guidelines for assessments as listed in Section II. The magnitude will depend on the taxable property for which they are liable. Regardless of the guidelines adopted by the Tax Commission, all taxpayers continue to have the right to appeal the assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for the updates, any aggregate impact on competition and employment statewide will likely be minimal.

Lawrence E. Chehardy	Gregory V. Albrecht
Chairman	Chief Economist
1812#018	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Real Estate Commission

Residential Property Management
(LAC 46:LXVII.Chapter 26)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to adopt LAC 46:LXVII.Chapter 26. The purpose of the proposed Rule change is to create a new Chapter where all existing rules related to residential property management can be found in one place. This includes the authorization required for licensees to engage in property management on behalf of another, the handling of the security deposit and rental trust funds, and the responsibility of licenses to retain property management records such as bank statements, deposit slips, lease agreements, and other documents pertaining to the property for five years.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 1. Real Estate
Chapter 26. Residential Property Management
§2601. Definitions

Property Management—the marketing, leasing, or overall management of real property for others for a fee, commission, compensation, or other valuable consideration.

Property Manager—one who, for a fee, commission, or other valuable consideration, manages real estate, including the collection of rents, supervision of property maintenance, and accounting for fees received for another.

Residential Real Property—real property consisting of one or not more than four residential dwelling units, which are buildings or structures each of which are occupied or intended for occupancy as single-family residences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:

§2603. Management Authorization

A. Licensees shall not engage in property management on behalf of another without written authorization from the property owner(s). Salespersons and associate brokers shall not conduct property management functions on behalf of another, except through their sponsoring broker.

B. Written authorization to manage property must at minimum include the following:

1. the duties and responsibilities of the property manager;

2. the authority and powers given by the property owner to the property manager;

3. the period of the agreement; and

4. the management fees charged to the property owner

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:

§2605. Trust Funds, Deposits, and Accounts for Property Management

A. Licensees engaged in property management on behalf of another shall open and maintain accounts in accordance with Chapter 27 of the rules and regulations of the commission.

B. All security deposit and rental trust funds shall not be withdrawn for any purpose except:

1. upon the mutual written consent of all parties having an interest in the funds;

2. upon court order;

3. to deposit funds into the registry of the court in a concursus proceeding;

4. to disburse funds upon a reasonable interpretation of the contract that authorizes the broke to hold such funds, provided that the disbursement is not made until 10 days after the broker has notified all parties and licensees in writing;

5. to cover the payment of service charges on security deposit and rental trust accounts;

6. upon approval by the commission in connection with the sale or acquisition of a licensed entity;

7. to comply with the provision of 9:3251 or any other state or federal statute governing the transfer of rents, security deposits or other escrow funds.

C. Deposits shall be disbursed within 30 days of an agreement between the principles in a real estate transaction.

D. A licensee who receives funds on behalf of another for property management shall maintain a ledger for each property managed. This ledger must clearly document all funds received and disbursed to, and on behalf of, the property owner.

E. A licensee who accepts cash payments on behalf of an owner must retain written receipts. These receipts must include at minimum the date, the amount, the property address, the reason for the payment, the tenants name, and the name and signature of the licensee or employee who received the funds on behalf of the brokerage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:

§2607. Property Management Records

A. Licensees engaged in property management shall retain all of the following records, readily available and properly indexed, for a period of five years:

1. Bank statements, deposit slips, management agreements, lease agreements, owner ledgers or statements, deposit slips, disbursement checks, invoices, cash receipts, and any other documents that pertain to the management of the property.

2. Copies of all documents that pertain in any way to real estate transactions wherein the individual real estate broker or licensees sponsored by the individual real estate broker have appeared in a licensing capacity.

B. The requirement regarding copies shall not be altered by the transfer of a broker to that of an associate broker, an unlicensed person, or an inactive licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:

§2609. Exemptions

A. The provisions of this section shall not apply to an unlicensed person, partnership, limited liability company, association or corporation, foreign or domestic, who performs acts of ownership regarding the property, either individually or through an employer or representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 45:

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 December 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 Commission, 9071 Interline Avenue, Baton Rouge, LA 70809 or rshaw@lrec.gov, through January 10, 2019 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 January 24, 2019

at 9 a.m. at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Residential Property Management

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 create a new section where all existing rules related to residential property management can be found in one place. This includes the authorization required for licensees to engage in property management on behalf of another, the handling of the security deposit and rental trust funds, and the responsibility of licenses to retain property management records such as bank statements, deposit slips, lease agreements, and other documents pertaining to the property for five years.

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)

There are no estimated costs associated with the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Bruce Unangst	Evan Brasseaux
Executive Director	Staff Director
1812#026	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Medical Examiners

Acupuncturists, Licensure and Certification; Practice
(LAC 46:XLV.Chapters 21 and 51)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270 and Louisiana law governing licensed acupuncturists, R.S. 37:1356 et seq., the board proposes to amend its rules governing the licensing, certification and practice of licensed acupuncturists (LAC 46:XLV Chapters 21 and 51) to conform them to Act 93 of the 2018 Regular Session of the Louisiana Legislature. Among other items, the proposed changes: (i) update the licensure qualifications for licensed acupuncturists (2113); (ii) remove the requirement and associated references that licensed acupuncturists have a relationship with a referral physician who practices at a physical practice location in this state, for referrals and any follow-up care which may be necessary (2111-2115, 2127, 2141, 5105-5107, 5111); and (iii) make associated or necessary changes (e.g., removal of definitions no longer required (2103)). The proposed changes also contain an annual continuing professional education requirement of 15 hours for license renewal (2129, 2149-2161) and a new section on reinstatement of licensure (2130) for consistency with current practices. The proposed amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 21. Acupuncturists and Acupuncture Detoxification Specialists
Subchapter A. General Provisions
§2103. Definitions

A. As used in this Chapter and Chapter 51, the following terms shall have the meanings specified.

* * *

Clinical Practice Guidelines or Protocols (guidelines or *protocols)*—Repealed.

* * *

Physical Practice Location—Repealed.

* * *

Referral Physician—Repealed.

* * *

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1362 (July 2017), LR 45:

Subchapter C. Licensed Acupuncturist and Acupuncture Detoxification Specialist Certification; Qualifications for Supervising Physicians and Licensed Acupuncturists
§2111. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to licensure as a licensed acupuncturist, certification as an acupuncture detoxification specialist, and those of a supervising physician and supervising licensed acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1617 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1363 (July 2017) LR 45:

§2113. Qualifications for Licensure as a Licensed Acupuncturist

A. To be eligible for a license as a licensed acupuncturist, an applicant:

1 - 4. ...

5. shall meet both of the following:

a. hold active status with the National Certification Commission for Acupuncture and Oriental Medicine; and

b. have successfully passed the certification examination, including the biomedicine portion of the examination, given by the National Certification Commission for Acupuncture and Oriental Medicine or its successor.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34 1617 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1364 (July 2017), LR 45:

§2115. Application Procedure for Licensed Acupuncturist

A. Application for certification as a licensed acupuncturist shall be made in a format approved by the board.

B. An application under this Subchapter shall include:

1. ...

2. attestation by the applicant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

3. such other information and documentation as the board may require.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1618 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1364 (July 2017), LR 45:

Subchapter E. Certification, License Issuance, Approval of Registration of Supervising Physician or Supervising Licensed Acupuncturist, Termination, Renewal, Reinstatement

§2127. Expiration and Termination of Certification and Licensure; Modification

A. - B. ...

C. Licensure as a licensed acupuncturist whether an initial license or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that the licensed acupuncturist's license expires for failure to timely renew.

D. Reserved.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1366 (July 2017); LR 45:

§2129. Renewal of Certification and Licensure; Verification of Registration

A. Every certificate or license issued by the board under this Chapter shall be renewed annually on or before the last day of the year in which it was issued by submitting to the board a properly completed application for renewal, in a format specified by the board, together with evidence of the completion of 15 hours of accredited continuing professional education and the renewal fee prescribed in Chapter 1 of these rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1366 (July 2017), LR 45:

§2130. Reinstatement of Expired License

A. A license that has expired as a result of non-renewal for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;

2. a recent photograph of the applicant;

3. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and

4. the renewal fee and delinquent fee, set forth in Chapter 1 of these rules, for each year during which the license was expired.

a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;

b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. An individual whose license has lapsed and expired for a period in excess of two years shall not be eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

E. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a licensed acupuncturist shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter G. Acupuncture Advisory Committee

§2141. Constitution, Function and Responsibilities of Advisory Committee

A. ...

B. Composition. The committee shall be comprised of five members selected by the board, four of whom shall be licensed acupuncturists and one of whom shall be a physician acupuncturist. All members of the advisory committee will be licensed by the board and practice and reside in this state.

C. - D. ...

E. Functions of the Committee. The committee will provide the board with recommendations relating to:

1. - 3. ...

4. perform such other functions and provide such additional advice and recommendations as may be requested by the board.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 43:1367 (July 2017), LR 45:

Subchapter H. Continuing Education

§2149. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education required for annual renewal of a license to practice as a licensed acupuncturist, and prescribe procedures applicable to satisfaction and documentation thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§2151. Continuing Education Requirement

A. To be eligible for annual license renewal a licensed acupuncturist shall evidence and document in a format specified by the board the successful completion of 15 hours of approved continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§2153. Qualifying Programs and Activities

A. To be acceptable as qualified continuing professional education under these rules, an activity or program must have significant intellectual or practical content, dealing primarily with matters related to acupuncture, and its primary objective must be to maintain or increase the participant's competence as an acupuncturist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§2155. Approval of Program Sponsors

A. Any education program, course, seminar or activity accredited by the National Certification Commission for Acupuncture and Oriental Medicine or its successor or recognized by the United States Department of Education shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§2157. Documentation Procedure

A. A format or method specified by the board for documenting and certifying completion of continuing professional education shall be completed by licensees and returned with or as part of an annual renewal application.

B. Any continuing professional education activities not approved by the board pursuant to these rules shall be referred to the advisory committee for its evaluation and recommendations. If the committee determines that a continuing education activity does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§2159. Failure to Satisfy Continuing Education Requirements

A. An applicant for license renewal who fails to evidence satisfaction of the continuing professional education requirements shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. applicant has satisfied the applicable continuing professional education requirements; or

2. applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

B. The license of a licensed acupuncturist whose license has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board within the time and in accordance with the procedures for reinstatement provided by these rules.

AUTHOITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§2161. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the continuing professional education required by these rules in favor of a licensed acupuncturist who makes written request for such waiver and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the satisfaction of the continuing professional education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subpart 3. Practice

Chapter 51. Physician Acupuncturists, Licensed Acupuncturists and Acupuncture Detoxification Specialist

§5105. Necessity of Certification or Licensure; Exemptions

A. No person may act as or undertake to perform or practice acupuncture or acupuncture detoxification unless he or she holds a current license, certificate or permit issued by the board. While any physician may practice acupuncture,

and may apply to the board for registration to supervise an ADS, only a physician certified by the board under this Part may hold himself or herself out as a physician acupuncturist.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1622 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1367 (July 2017) LR 45:

§5106. Supervision of Acupuncture Detoxification Specialist

A. Reserved.

B. - B.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1622 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1368 (July 2017), LR 45:

§5107. Authority and Limitations of Licensed Acupuncturist and Acupuncture Detoxification Specialist

A. A licensed acupuncturist shall not:

1. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function required by law to be performed or provided by one possessing a certificate, registration or license other than as a LAc, in the absence of such certificate, registration or license; or

2. identify himself, or permit any other person to identify him, as "doctor" unless he designates the degree entitling such use or render any service to a patient unless the LAc has clearly identified himself as a LAc by any method reasonably calculated to advise the patient that the licensed acupuncturist is not a licensed physician.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1623 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1368 (July 2017), LR 45:

§5111. Obligations and Responsibilities

A. An LAc shall:

1. report directly to the board, in writing, of

the retirement or withdrawal from active practice by the LAc;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the licensed acupuncturist;

3. - 4. ...

B. The licensed acupuncturist shall insure strict compliance with his or her obligations and responsibilities set forth in the rules of this Part.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1624 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1369 (July 2017), LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Analysis

It is not anticipated that the proposed rule amendments will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., January 21, 2019.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on January 28, 2019 at 9 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.,
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Acupuncturists, Licensure and Certification; Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time publication expense of $2,888 in FY 19 for the LA State Board of Medical Examiners (LSBME). Otherwise, the proposed rule changes will not result in any additional costs for state or local governmental units.

The proposed rule changes amend rules governing the licensing, certification and practice of licensed acupuncturists (AcAs) to conform with Act 93 of the 2018 Regular Session. The proposed rule changes do the following: update the licensure qualifications for licensed acupuncturists; remove the requirement and associated references that licensed acupuncturists have a relationship with a referral physician who practices at a physical practice location in this state, for referrals and any follow-up care which may be necessary; and make associated technical changes consistent with Act 93. The proposed changes also contain a continuing professional education requirement of 15 hours annually for license renewal and add a section on reinstatement of licensure for consistency with current practices.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Consistent with Act 93, the proposed rule changes remove the requirement for licensed acupuncturists to have a relationship with a referral physician, identifying such a physician in licensure applications to the Board or providing associated paperwork e.g., attestations, clinical practice guidelines, protocols or notices, etc. These changes will result in a reduction in workload and paperwork for applicants for AcA licensure.

The changes also include a continuing professional education requirement for annual license renewal. Due to the varying costs for obtaining continuing professional education, the LSBME cannot estimate the cost attributable to the proposed changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Removal of the requirement that a licensed acupuncturist have a relationship with a referral physician may enhance practice and employment opportunities for AcAs in Louisiana in the aggregate, as it may allow for more AcAs to practice. Otherwise, it is not anticipated that the proposed changes will have any impact on competition or employment.

Vincent A. Culotta, Jr., M.D.	Evan Brasseaux
Executive Director	Staff Director
1812#037	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Medical Examiners

Genetic Counselors, General,
Licensure, Certification and Practice
(LAC 46:XLV.Chapter 2, Chapter 38 and Chapter 60)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and the laws governing genetic counseling in this state, as enacted by Act 593 of the 2018 Regular Session of the Louisiana Legislature, R.S. 37:1360.101-1360.111, the board intends to adopt administrative rules governing the general regulation, licensure, certification and practice of genetic counselors in this state, Title 46, (Professional And Occupational Standards), Part XLV (Medical Professions), Subpart 1 (General) Chapter 1 (Fees and Costs), Subchapter P, Sections 261-265, Subpart 2 (Licensure and Certification) Chapter 38, Sections 3801-3877 and Subpart 3 (Practice) Chapter 60, Sections 6001-6037. The proposed Rule are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 1. General

Chapter 1. Fees and Costs

Subchapter P. Genetic Counselors

§261. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of genetic counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§263. Licenses and Permits

A. For processing an application for licensing a genetic counselor, a fee of $125 shall be payable to the board.

B. For processing a genetic counselor temporary license (examination permit), a fee of $100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§265. Annual Renewal

A. For processing an application for annual renewal of a genetic counselor's license, a fee of $75 shall be payable to the board

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subpart 2. Licensure and Certification

Chapter 38. Genetic Counselors

Subchapter A. General Provisions

§3801. Scope of Chapter

A. The rules of this Chapter govern the licensing of genetic counselors in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3803. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified.

ABGC—American Board of Genetic Counseling, or its successor.

ABMGG—American Board of Medical Genetics and Genomics, or its successor.

Act—the Genetic Counselor Practice Act, R.S. 37:1360.101 et seq., as may be amended.

Active Candidate Status—an individual who has met the requirements established by the ABGC or the ABMGG to

take the certification examination in genetic counseling or medical genetics and has been granted this designation by the ABGC or the ABMGG.

Advisory Committee or Committee—the Louisiana Genetic Counselor Advisory Committee, as established, appointed and organized pursuant to R.S. 37:1360.102 of the Act.

Applicant—an individual who has applied to the board for a license or temporary license to practice genetic counseling in this state.

Board—the Louisiana State Board of Medical Examiners.

Collaborating Physician or *CP*—a physician who has entered into a collaborative practice agreement with a genetic counselor.

Collaborative Practice Agreement or *CPA*—a document established by a genetic counselor and a physician which governs the professional relationship between the genetic counselor and the physician.

Direct Supervision—supervision provided by a licensed genetic counselor or a physician who has the overall responsibility to assess the work of the holder of a temporary license, including regular meetings and chart review, provided pursuant to a supervision contract. The genetic supervisor shall not be required to be physically present where such licensee provides genetic counseling services; however, the supervisor shall be readily accessible during the performance of services by telephone or other means of telecommunication, to answer questions, provide oversight and furnish assistance and direction.

Genetic Counseling—means any of the following actions by a genetic counselor that occur through and as a result of communication between the genetic counselor and a patient:

a. obtaining and evaluating individual, family, and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, his offspring, and other family members;

b. discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic and medical conditions and diseases;

c. identifying and coordinating genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment;

d. integrating genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic and medical conditions and diseases;

e. explaining the clinical implications of genetic laboratory tests and other diagnostic studies and their results;

f. evaluating the client's or family's responses to the condition or risk of recurrence and providing client-centered counseling and anticipatory guidance;

g. identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy;

h. providing written documentation of medical, genetic, and counseling information for families and healthcare professionals.

Genetic Counselor—an individual who is licensed pursuant to this Part to provide genetic counseling.

Genetic Supervision—the assessment of the holder of a temporary license by a genetic counselor or a physician based on direct supervision.

Good Moral Character—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:1360.108 for the denial, suspension or revocation of genetic counselor licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by this Chapter.

License or *Licensure*—the lawful authority to engage in the practice of genetic counseling in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Licensed Genetic Counselor or *LGC*—an individual who is licensed by the board to practice genetic counseling in Louisiana.

NSGC—the National Society of Genetic Counselors, or its successor.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a license duly issued by the board.

State—any state of the United States, the District of Columbia, or any of its territories.

Supervision Contract or *Genetic Supervision Contract*—a contract between the holder of a temporary license and a licensed genetic counselor or physician, that sets forth the manner in which the genetic supervisor will provide direct supervision. The supervision contract shall provide for:

a. assessment and documentation of the professional competence, skill, and experience of the supervisee;

b. the nature and level of the supervision required by the supervisee;

c. regular meetings to review clinical services and administrative practices;

d. monthly chart or case reviews;

e. coverage during the absence, incapacity, infirmity, or emergency by the genetic supervisor; and

f such other items as may be deemed appropriate by the parties.

True Consultation—an informal consultation or second opinion, provided by an individual practicing genetic counseling in a state other than Louisiana, who is certified by the American Board of Genetic Counseling or the American Board of Medical Genetics; provided, however, that the Louisiana licensed physician or genetic counselor receiving the consultation or opinion is personally

responsible to the patient for any evaluation, testing or treatment provided.

United States Government—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter B. Requirements and Qualifications for Licensure

§3809. Scope of Subchapter

A. The rules of this Subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed genetic counselor in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3811. Requirements and Qualifications for Licensure

A. To be eligible and qualified to obtain a genetic counselor license, an applicant shall:

1. possess one of the following degrees:

a. a master's degree from a genetic counseling training program accredited by the Accreditation Council for Genetic Counseling; or

b. a doctoral degree from a medical genetics training program accredited by the American Board of Medical Genetics and Genomics; and

2. possess current certification, based on examination:

a. as a genetic counselor by:

i. the American Board of Genetic Counseling; or

ii. the American Board of Medical Genetics; or

b. as a medical geneticist by the American Board of Medical Genetics;

3. be of good moral character;

4. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the regulations thereunder (8 CFR);

5. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

6. satisfy the procedures and requirements for application provided by Subchapters C and D of this Chapter; and

7. not be otherwise disqualified by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3813. License by Reciprocity

A. An individual who possesses a current, unrestricted license, certificate or registration to practice genetic counseling, issued by the medical licensing authority of another state, shall be eligible for a license in this state if the applicant:

1. possesses the requirements and qualifications for licensure specified in this Subchapter;

2. satisfies the procedural and other requirements specified in Subchapters C and D of this Chapter; and

3. is in good standing in the state in which he or she is licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter C. Application

§3819. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements for application to the board for licensure as a genetic counselor in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3821. Application Procedure

A. Application for licensure shall be made in a format approved by the board.

B. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

C. An application for licensure under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for licensure set forth in this Chapter;

2. a recent photograph of the applicant;

3. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

4. criminal history record information, pursuant to R.S. 37:1270B(7) and 1277;

5. payment of the applicable fee as provided in Chapter 1 of these rules;

6. the name, primary practice location and contact information of a collaborating physician, if currently known;

7. attestation by the applicant certifying that he or she will not practice genetic counseling in this state in the absence of a collaborative practice agreement conforming to the requirements of §6021 of these rules; and

8. such other information and documentation as the board may require to evidence qualification for licensure.

D. All documents required to be submitted to the board must be the originals. For good cause shown, the board may waive or modify this requirement.

E. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document or item required by the application. The board may, at its discretion, require a more detailed or complete response to any request for information

set forth in the application as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3823. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a genetic counselor, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board if the board has reasonable grounds to believe that the applicant's capacity to act as a genetic counselor with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to this Section, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the genetic counselor licensing authority of any state, the American Board of Genetic Counseling or the American Board of Medical Genetics, or their successors, the Louisiana Department of Health, federal, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter D. Examination

§3829. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to the examination for licensure of genetic counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3831. Designation of Examination

A. The examinations accepted by the board for licensure are the certification examinations for:

1. a genetic counselor offered by:
   a. the American Board of Genetic Counseling; and
   b. the American Board of Medical Genetics; or
2. a medical geneticist offered by the American Board of Medical Genetics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3833. Restriction, Limitation on Examination

A. An applicant who fails an examination four times shall not thereafter be considered for licensure until successfully completing such continuing professional education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3835. Passing Score

A. An applicant will be deemed to have successfully passed the examination if he or she attains a score equivalent to that required by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics as a passing score for the examination taken by the applicant-examinee.

B. Each time an applicant-examinee attempts a certification examination the applicant shall inform the board of the examination results and shall authorize the ABGC or the ABMGG to release their test scores to the board according to the organization’s procedures for such notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter E. Licensure Issuance, Termination, Renewal, and Reinstatement

§3841. Issuance of License

A. If the qualifications, requirements and procedures prescribed or incorporated in Subchapters B and C of this Chapter are met to the satisfaction of the board, the board shall issue a license to the applicant to practice genetic counseling in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3843. Expiration of License

A. Every license issued by the board under this Chapter shall expire, and thereby become null, void and to no effect the following year on the last day of the month in which the licensee was born.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3845. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before the last day of the month in which the licensee was born by submitting to the board:

1. a renewal application in a format prescribed by the board;

2. the renewal fee prescribed in Chapter 1 of these rules; and

3. certification that the applicant has:

a. complied with the continuing professional education requirement as prescribed by Subchapter G of these rules; or

b. not complied with the continuing professional education requirement but is seeking a waiver of such requirement, as provided by Subchapter G of these rules.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. If an individual fails to comply with the requirements of this Section on or before the expiration of a license, the license shall expire and become null and void without further action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3847. Reinstatement of License

A. A license which has expired as a result of non-renewal, for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;

2. a recent photograph of the applicant;

3. proof of satisfaction of the continuing professional education for each year that the license lapsed, as set forth in Subchapter G of this Chapter;

4. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and

5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;

b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. A genetic counselor whose license has lapsed and expired for a period in excess of two years shall not eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A temporary license is not subject to reinstatement.

E. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a genetic counselor shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3849. Temporary License

A. The board may issue a temporary license, also known and designated as an "examination permit," to an individual who meets and satisfies all of the requirements and qualifications for genetic counselor licensure set forth in this Chapter, except for having taken and passed the examination for certification offered for his or her associated masters or doctoral degree, as prescribed in Subchapter B of this Chapter.

B. Eligibility. To be eligible for an examination permit an applicant shall:

1. satisfy the procedures, qualifications and requirements for application specified in Subchapters B and C of this Chapter;

2. hold active candidate status for the certification;

3. not have failed the certification examination associated with his or her active candidate status more than one time;

4. certify to the board that he or she shall:

a. make application to take and take the certification examination associated with his or her active candidate status on the next available date the examination is offered;

b. only practice genetic counseling under direct supervision of a licensed genetic counselor or a physician, and only in accordance with a genetic supervision contract;

5. not otherwise be disqualified due to any ground for licensure denial provided by the Act or these rules.

C. Permit Term. An examination permit shall expire and become null and void upon the earlier of:

1. six months from the date of issuance;

2. the date on which the applicant successfully passes the examination for certification and is issued a genetic counselor license;

3. thirty days after the applicant fails the examination for certification;

4. thirty days after the date the permit holder fails to appear and take the certification examination for which he or

she was registered. An exception may be granted at the sole discretion of the board upon a request submitted in writing, which is deemed acceptable to the board, identifying a life-threatening or significant medical condition or other extenuating circumstance that prevented the applicant's appearance for the examination;

5. the expiration date printed on the examination permit.

D. Number of Permits. An individual who holds an examination permit but fails to pass or appear for the examination for certification may apply to the board for a second examination permit; provided, however, the board shall not issue an examination permit to an individual who has failed to pass, or failed to appear and take the examination for certification, more than one time.

E. An individual who holds an examination permit shall, without delay, inform the board in writing of the results of his or her certification examination or of the individual's failure to appear for the examination for which he or she was scheduled.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for an examination permit shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter F. Genetic Counselor Advisory Committee

§3855. Organization; Authority

A. The Louisiana Genetic Counselor Advisory Committee (the "advisory committee"), as established, appointed and organized pursuant to R.S. 37:1360.102 of the Act, is hereby recognized by the board.

B. The purpose of the committee is to advise and make recommendations to the board regarding the practice of genetic counseling, including collaborative agreements and genetic counselor licensure.

C. The committee shall:

1. have such authority as is accorded to it by the Act;

2. function and meet as prescribed by the Act;

3. advise the board on issues affecting the licensing of genetic counselors and regulation of genetic counseling in this state;

4. make recommendations to the board regarding model forms and examples of collaborative practice agreements;

5. evaluate continuing professional education programs for genetic counselors and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to Subchapter G of these rules;

6. serve as liaison between and among the board, licensed genetic counselors, and professional organizations;

7. perform such other functions and provide such additional advice as the board may request; and

8. receive reimbursement for actual and reasonable expenses incurred in the performance of their duties with respect to attendance at committee meetings and for other expenses when specifically authorized by the board.

D. Committee Meetings, Officers. The advisory committee shall meet at least twice each calendar year, or more frequently as may be deemed necessary at the call of the chair, a quorum of the committee or the board. The presence of three of the five member committee shall constitute a quorum of the committee. At its initial meeting the committee shall elect from among its members a chair, a vice-chair and a secretary, who shall serve until their successors are elected and qualified. The chair, or in the chair's absence or unavailability, the vice-chair, shall designate the date, time and place and preside at all meetings of the committee and record, or cause to be recorded, accurate and complete minutes of all of meetings of the committee and shall cause copies of the same to be provided to the board.

E. Confidentiality. In discharging the functions authorized under this Section the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the committee members relative to individual applicants or licensees pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board any confidential information or documents obtained when acting as agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter G. Continuing Professional Education

§3861. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a licensed genetic counselor, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3863. Continuing Professional Educational Requirement

A. Subject to the waiver of requirements and exceptions specified in §3875 and §3877 of this Subchapter, to be eligible for renewal of licensure a genetic counselor shall evidence and document, in a format specified by the board, the successful completion of:

1. within each year during which he holds a license:

a. not less than twenty-five contact hours of continuing professional education sanctioned by the National Society of Genetic Counselors or its successor; or

b. a reading assignment and proctored examination in medical genetics provided by the American Board of Genetics and Genomics or its successor; or

2. the completion of such other qualifying continuing professional education as may be offered by an approved sponsor, recommended by the advisory committee and approved by the board, that satisfies the requirements specified by §3865 and §3867 of this Subchapter.

B. For purposes of this Section, one contact hour of continuing professional education credit is equivalent to 50 minutes of qualifying lecture, clinical practice, on-line course or workshop instruction on topics pertaining to the genetic counseling profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3865. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualifying continuing professional education under these rules, a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of genetic counseling;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of genetic counseling;

3. be presented by individuals whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation and is up to date;

4. provide a system or method for verification of attendance or course completion;

5. be a minimum of 50 continuous minutes in length for each contact hour of credit; and

6. allow participants an opportunity to ask questions on the content presented.

B. Other approved continuing professional education activities include:

1. earning a grade of "C" or better in a college or university course required to earn a degree in genetic counseling or medical genetics, or a grade of "pass" in a pass/fail course. One credited semester hour will be deemed to equal 25 contact hours;

2. a genetic counseling seminar, workshop, home study, on-line, or correspondence course approved by the advisory committee or the board, pursuant to the criteria set forth in §3869 of these rules.

C. None of the following programs, seminars or activities shall be deemed to qualify as acceptable continuing professional education programs under these rules:

1. any program not meeting the standards prescribed by this Section;

2. any independent, home study, correspondence course, on-line lecture, workshop, program or seminar that is not approved or sponsored by the National Society of Genetic Counselors, the American Board of Medical Genetics and Genomics, or the advisory committee pursuant to the criteria set forth in §3869 of these rules;

3. in-service education provided by a sales representative unless approved by NSGC or the ABMGG;

4. teaching, training or supervisory activities not specifically included in §3865.B;

5. holding office in professional or governmental organizations, agencies or committees;

6. participation in case conferences, informal presentations, or in service activities;

7. giving or authoring verbal or written presentations, seminars or articles or grant applications; and

8. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the content presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3867. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §3865 shall be deemed approved for purposes of satisfying continuing professional education requirement under this Subchapter, if sponsored or offered by one of the following organizations: the NSGC, the ABMGG, the Louisiana Department of Health (LDH), the Louisiana Hospital Association (LHA), or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) .

B. Upon the recommendation of the advisory committee, or on its own motion, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §3865 or §3867.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3869. Approval of Program

A. A continuing professional education program or activity sponsored by an organization or entity that is not approved by the board pursuant to §3865 or §3867 must be evaluated and approved by the advisory committee in order to be accepted for purposes of meeting the continuing professional education requirement for annual renewal of licensure. To be considered for approval the sponsoring organization or entity shall submit a written request to the board. For each continuing professional educational program presented for consideration the following shall be provided:

1. a list of course goals and objectives for each topic;

2. a course agenda displaying the lecture time for each topic;

3. a curriculum vitae for each speaker;

4. information on the location, date(s), and target audience;

5. a copy of the evaluation form used for the overall program topics and speakers; and

6. such other information as the advisory committee may request to establish the compliance of such program with the standards prescribed by §3865 or §3867.

B. A request for pre-approval of a continuing professional education program shall be submitted in a format approved by the board not less than 120 days in advance of the event.

C. Any such written request shall be referred by the board to the advisory committee for evaluation and approval.

D. If the recommendation is against the approval, the board or the advisory committee shall give notice of such recommendation to the person or organization requesting approval. An appeal may be submitted to the board by written request, accompanied by all information required by

Subsection A of this Section within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3871. Documentation Procedure

A. Annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall accompany a licensed genetic counselor's application for renewal of licensure pursuant to §3845 of these rules.

B. A licensed genetic counselor shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing professional education program.

C. The board or advisory committee shall randomly select for audit no fewer than 3 percent of the licensees each year for an audit of continuing professional education activities. In addition, the board or advisory committee has the right to audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved in writing by the board, pursuant to §3865 or §3867 of these rules, or pre-approved by the advisory committee, pursuant to §3869, shall be referred to the advisory committee for its evaluation and recommendations prior to licensure denial or renewal.

E. If the advisory committee determines that a continuing professional education program or activity listed by an applicant for renewal does not qualify for recognition by the board or does not qualify for the number of contact hours claimed by the applicant, the board shall give notice of such determination to the applicant. An applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3873. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to satisfy the continuing professional education requirement prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to suspension or revocation without further notice, unless the applicant shall have, within such 90 days, furnished the board satisfactory evidence by affidavit that:

1. the applicant has satisfied the applicable continuing professional education requirement;

2. the applicant is exempt from such requirement pursuant to these rules; or

3. the applicant's failure to satisfy the continuing professional education requirement was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §3875.

B. The license of a genetic counselor whose license has expired by nonrenewal or has been suspended or revoked for failure to satisfy the continuing professional education requirement of this Subchapter may be reinstated by the board upon application to the board pursuant to §3847 of this Chapter, accompanied by payment of a reinstatement fee, together with documentation and certification that the applicant has, for each calendar year since the date on which the applicant's license lapsed, expired, or was suspended or revoked, satisfied the continuing professional education requirement prescribed by this Subchapter.

C. Any licensee who falsely certifies attendance and/or completion of the required continuing professional education requirement will be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3875. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the advisory committee, waive all or part of the continuing professional education required by these rules in favor of a genetic counselor who makes a written request for such waiver to the board and evidences to its satisfaction:

1. services in the armed forces of the United States during a substantial part of the renewal period;

2. an incapacitating illness or injury;

3. a permanent financial hardship or other extenuating circumstances precluding the individual's satisfaction of the continuing professional education requirement. Any licensed genetic counselor submitting a continuing professional education waiver request is required to do so on or before the date specified for the renewal of the licensee's license by §3845. Any request received by the board past the date for licensure renewal will not be considered for waiver but, rather, in accordance with the provisions of §3847.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§3877. Exceptions to the Continuing Professional Education Requirements

A. The continuing professional education requirement prescribed by this Subchapter for renewal of licensure shall not be applicable to a genetic counselor employed exclusively by, or at an institution operated by the United States government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subpart 3. Practice

Chapter 60. Genetic Counselors

Subchapter A. General Provisions

§6001. Scope of Chapter

A. The rules of this Chapter govern the practice of genetic counseling in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6003. General Definitions

A. The definitions set forth in Chapter 38 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter B. Unauthorized Practice, Designation of License or Permit and Exemptions

§6009. Unauthorized Practice

A. No individual shall engage in the practice of genetic counseling in this state unless he or she possesses a current license or a temporary license (examination permit), duly issued by the board under Subpart 2 of this Part.

B. An individual who does not possess a current license or a temporary license (examination permit), duly issued by the board shall not, directly or indirectly, identify or designate himself or herself as a *genetic counselor*, *licensed genetic counselor*, nor use in connection with his or her name the letters "GC," “LGC,” or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is licensed to practice genetic counseling in this state, or that the services provided by such person constitute genetic counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6011. Designation of License or Permit

A. Every genetic counselor shall wear an identification badge when engaged in the practice of genetic counseling. The identification badge shall be clearly visible at all times and shall bear the first name or initial, the full surname and the term reflecting the individual's licensure as a *genetic counselor*, *licensed genetic counselor*, or the letters "GC" or “LGC.”

B. A genetic counselor who currently holds a temporary license (examination permit) issued by the board may use the words "genetic counselor-temp license" or "genetic counselor-exam permit" or the letters "GC-TL" or "GC-EP" in connection with his or her name to denote his or her license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6013. Exemptions

A. The prohibitions of §6009 of this Chapter shall not apply to:

1. a physician; provided, however, that while a physician may practice genetic counseling, serve as a collaborating physician or provide genetic supervision to a genetic counselor holding a temporary license, only a physician licensed by the board under this Part may hold himself or herself out as a *genetic counselor* or any other title that indicates that he or she is a genetic counselor unless licensed as such in accordance with the provisions of this Part;

2. a student or intern enrolled and participating in a supervised genetic counseling training program, accredited by the American Board of Medical Genetics and Genomics or the American Board for Genetic Counseling, and who is designated by a title which clearly indicates his or her status as a student or intern;

3. an individual from another state who is certified by the American Board of Medical Genetics and Genomics or the American Board of Genetic Counseling, when providing a true consultation as defined in Part 2 of this Part;

4. an individual acting under and within the scope of a license issued by another licensing agency of the state of Louisiana; or

5. any individual employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans' Administration, practicing in the discharge of his or her official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter C. Eligibility; Requirements of Collaborative Practice Agreement, Authority and Limitations, Obligations and Responsibility and Required Information

§6019. Physician Eligibility to Engage in Collaborative Practice with a Genetic Counselor

A. To be eligible to engage in collaborative practice with a genetic counselor a physician shall:

1. shall hold a current medical license issued by the board, or be otherwise authorized by federal law or regulation to practice medicine in this state;

2. be actively engaged in the provision of direct patient care in this state;

3. practice in an area comparable in scope, specialty, or expertise to that of a genetic counselor;

4. have signed a collaborative practice agreement with a genetic counselor that complies with the standards of practice prescribed by §§6019-6021 of this Subchapter;

5. have no pending disciplinary proceedings before the board and practice in accordance with rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6021. Collaborative Practice Agreement; Requirements; Annual Review and Signature

A. A genetic counselor shall enter into a collaborative practice agreement with a physician who agrees to work with and provide medical support to the genetic counselor.

B. The CPA shall be set forth in a formal document that memorializes the relationship between the genetic counselor and CP and, at a minimum:

1. establish the criteria governing the genetic counselor’s performance of:

a. ordering genetic tests or other tests for the purpose of diagnosing a genetic medical condition, inherited

disorder, or determining the carrier status of one or more family members of the patient; and

b. selecting the most appropriate, accurate, and cost-effective methods of diagnosis.

2. include a plan of accountability among the parties that addresses:

a. arrangements for diagnostic and laboratory testing; and

b. a plan for documentation of medical records;

c. a list of conditions and events upon which the genetic counselor is required to notify the CP;

d. a predetermined plan to address medical emergencies, e.g., calling 911, referral to a hospital emergency room or a primary care provider, if needed;

e. referral of patients to the CP or another physician;

f. documentation that patients are informed about how to access care when both the genetic counselor and/or the CP are unavailable;

g. informed consent by the patient;

h. authorization for the CP to review the patient's medical record; and

i. an acknowledgment that the CP and genetic counselor shall comply with all requirements of §6025 of this Chapter.

C. The genetic counselor and CP shall have the capability to be in contact with each other by either telephone or other telecommunications device on a regular basis to address any questions or concerns that may arise.

D. Collaborative practice agreements shall be annually reviewed, updated as appropriate, and signed and dated by the genetic counselor and collaborating physician. The signature of the genetic counselor and CP and date of review shall be noted on the CPA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6023. Authority and Limitations of Genetic Counselors

A. A genetic counselor shall not:

1. practice without a current collaborative practice agreement with a collaborating physician, as defined or provided in this Chapter;

2. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function other than as a genetic counselor as defined in this Part; or

3. identify himself or herself, or permit any other person to identify him or her, as "physician."

B. A genetic counselor holding a temporary license (examination permit) shall not:

1. practice without direct supervision of a licensed genetic counselor or a physician, and only in accordance with a current genetic supervision contract, as defined in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6025. Obligations and Responsibilities

A. It shall be the mutual obligation of a genetic counselor and collaborating physician to:

1. within 5 days, report directly to the board, in writing, of:

a. the termination of the collaborative practice agreement between a collaborating physician and genetic counselor; and

b. the retirement or withdrawal from active practice by the collaborating physician or genetic counselor;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the genetic counselor;

3. insure that each individual to whom the genetic counselor provides patient services is expressly advised and understands that the genetic counselor is not a physician; and

4. insure that, with respect to each patient, all activities, functions and services of the genetic counselor are immediately and properly documented in written or electronic form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6027. Required Information

A. Each physician shall report to the board annually, as a condition to the issuance or renewal of medical licensure, whether or not he or she is engaged in collaborative practice with a genetic counselor and, if so, such information as may be requested by the board.

B. The information required by this Section shall be reported in a format prepared by the board, which shall be made part of or accompany each physician's renewal application for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6029. Board Access to Documents

A. Collaborative practice agreements shall made available by a genetic counselor and collaborating physician for review, examination, inspection and copying upon request by the board or its designated employees or agents.

B. A genetic counselor and collaborating physician shall comply with and respond to requests by the board for personal appearances and information relative to his or her collaborative practice.

C. Employees or agents of the board may perform an on-site review of a genetic counselor and collaborating physician practice at any reasonable time, without the necessity of prior notice, to determine compliance with the requirements of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter D. Grounds for Administrative Action

§6035. Causes for Administrative Action

A. The board may deny, refuse to issue, revoke, suspend, cancel, place on probation, reprimand, censure, or otherwise

impose terms, conditions and restrictions on a license or temporary license (examination permit) of any licensee or applicant for licensure, upon proof satisfactory to the board that the individual has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6037. Causes for Action; Definitions; Unprofessional Conduct

A. As used herein, the term *unprofessional conduct* by a licensed genetic counselor or an applicant for licensure shall mean any of the causes set forth in R.S. 37:1360.108 of the Act.

B. As used in R.S. 37:1360.108 of the Act, an individual who has "obtained or attempted to obtain a license by fraud or deceit" means and includes an individual who:

1. makes any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to an application for licensure under Chapter 38 of these rules; or

2. makes any representation, or fails to make a representation, or engages in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the requirements for licensure required by Chapter 38 of these rules.

C. As used in R.S. 37:1360.108 of the Act, the term *convicted*, as applied to a licensed genetic counselor or applicant for licensure as a genetic counselor, means that a judgment has been entered against such individual by a court of competent jurisdiction, whether upon verdict, judgment, or plea of guilty or nolo contendere, or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime. Such a judgment provides cause for administrative action by the board so long as it has not been reversed by an appellate court of competent jurisdiction and notwithstanding the fact that an appeal or other application for relief from such judgment is pending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed Rule on the family has been considered. It is not anticipated that the proposed Rule will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed Rule on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed Rule will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed Rule on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed rules will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170

Small Business Analysis

It is not anticipated that the proposed Rule will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., January 21, 2019.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on January 28, 2019 at 10 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.,
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Genetic Counselors, General, Licensure, Certification and Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will result in a one-time publication expense of $4,620 for the LA State Board of Medical Examiners in FY 19. Furthermore, the LSBME anticipates devoting nominal administrative resources and time to processing license applications for genetic counselors (GCs), a new category of licensed allied healthcare providers created by Act 593 of the 2018 Regular Session. While the number of applicants who may seek GC licensure is unknown, the number of applicants is anticipated to be few in number. Furthermore, the proposed rules establish the LA Genetic Counselor Advisory Committee, which will be comprised of 5 members. Members will not be compensated, but may be reimbursed for necessary expenses incurred during the course of their official duties pursuant to PPM 49. Therefore, the LSBME will absorb any increase in administrative workload associated with the proposed rules utilizing existing resources and personnel.

Furthermore, any fees derived from licensure of GCs (See Part II) will be utilized to defray any associated expenses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase SGR collections for the LSBME by an indeterminable amount beginning in FY 19 and in subsequent fiscal years. The proposed rules will generate agency fees for the issuance and annual renewal of genetic counselor licensure of $125 and $100, respectively. The number of persons who make seek GC licensure is presently unknown. However, the LSBME anticipates no more than 15 applicants will seek initial licensure in FY 19, with no more than 5 additional applicants in each of the following two years. To the extent this occurs, total revenues associated with licensure of GCs will be $1,875 in FY 19 (15 initial applicants, 15 x $125 = $1,875), $2,125 in FY 20 (5 initial applicants, 5 x $125 = $625 plus 15 renewals, 15 x $100 = $1,500, = $625 + $1,500 = $2,125), and $3,625 in FY 21 (5 initial applicants, 5 x $125 = $625 plus 30 renewals, 30 x $100 = $3,000 = $625 + $3,000 = $3,625).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will result in a workload and cost increase for GCs, as they must utilize an online application form supplied by the Board for initial issuance and renewal of a license or permit, payment of the applicable initial licensure ($125) and license renewal ($100) fees, and costs to partake in necessary annual continuing education courses. The proposed rules outline the licensing regulations and professional standards for GCs to practice in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will affect competition or employment.

Vincent A. Culotta, Jr., M.D.	Evan Brasseaux
Executive Director	Staff Director
1812#038	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Medical Examiners

Physician Assistants, Licensure and Certification; Practice
(LAC 46:XLV.Chapter 15, 4506 and 4507)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270 and Louisiana law governing Physician Assistants (PAs), R.S. 37:1360.21-1360.38, the board intends to amend its rules governing PAs, LAC 46:XLV Chapters 15 and 45, to conform them to Act 475 of the 2018 Regular Session of the Louisiana Legislature and to update the rules generally as made necessary by the passage of time and for consistency with current practices. Among other items, the proposed amendments: increase from four to eight the number of PAs for whom a physician may serve as primary supervising physician (PSP) (4507D.); restate and clarify the PA qualifications for prescriptive authority for consistency with current law (1521A.); limit qualifications for PA prescriptive authority to those set forth in the law (1521); update associated references to rule citations from 1521 to 1527 where indicated (e.g., 1503A, 1523A.3, 1525A.2, 1527A.4 and 4506C.2.d.); and relocate existing requirements for continuing medical education from 1529C.-D. to 1517B.3. Further, because PAs are the only category of healthcare providers licensed by the Board whose rules do not contain a delinquent fee for late renewal/reinstatement, the proposed changes include such a provision in a new section on reinstatement (1519). The proposed amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 15. Physician Assistants
§1503. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

* * *

Protocol or *Clinical Practice Guidelines* or *Clinical Practice Guidelines or Protocols*—a written set of directives or instructions regarding routine medical conditions, to be followed by a physician assistant in patient care activities. If prescriptive authority has been delegated to the physician assistant by the supervising physician the clinical practice guidelines or protocols shall contain each of the components specified by §1527. The Advisory Committee shall periodically publish and disseminate to supervising physicians and all physician assistants, model forms and examples of clinical practice guidelines and protocols. The supervising physician and physician assistant shall maintain a written copy of such clinical practice guidelines and protocols, which shall be made immediately available for inspection by authorized representatives of the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999), LR 31:73 (January 2005), LR 34:244 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1174 (June 2017), LR 45:

§1517. Expiration of Licensure; Renewals; Continuing Education; Modification; Notification of Intent to Practice

A. ...

B. Every license issued by the board under this Chapter shall be renewed annually on or before the last day of the month in which the licensee was born, by submitting to the board an application for renewal in a format approved by the board, together with:

1. - 2. ...

3. confirmation of the completion of such continuing education as is required to maintain current NCCPA certification. A physician assistant shall maintain a record of certification of attendance for at least four years from the date of completion of the continuing education activity. Such record shall be made available to the board within thirty days of its request.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.23, and 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:1498 (August 1998), LR 25:31 (January 1999), LR 30:238 (February 2004), LR 34:245 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017); LR

§1519. Reinstatement of Expired License

A. A license that has not been placed on in-active status pursuant to §1517 of these rules, which has expired as a result of non-renewal for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;

2. a recent photograph of the applicant;

3. current NCCPA certification;

4. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and

5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;

b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. A physician assistant whose license has lapsed and expired for a period in excess of two years shall not be eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A temporary license is not subject to reinstatement.

E. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a physician assistant shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.23, 37:1360.24 and 37:1360.26.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§1521. Qualifications for Physician Assistant Registration of Prescriptive Authority

A. Legend Drugs, Medical Devices and Controlled Substances. To be eligible for registration of prescriptive authority, a physician assistant shall:

1. have completed a minimum of five hundred clinical training hours prior to graduation from an approved physician assistant education program;

2. hold an active, unrestricted license to practice as a physician assistant duly issued by the board;

3. have received authority to prescribe to the extent delegated by a supervising physician; and

4. apply for a controlled dangerous substance license from the Louisiana Board of Pharmacy and register with the United States Drug Enforcement Agency, if delegated authority to prescribe Schedule II, III, IV, or V controlled substances by the supervising physician.

B. The board may deny registration of prescriptive authority to an otherwise eligible physician assistant for any of the causes enumerated by R.S. 37:1360.33, or any other violation of the provisions of the Louisiana Physician Assistant Practice Act, R.S. 37:1361.21 et seq. or its rules applicable to physician assistants.

C. The burden of satisfying the board as to the eligibility of the applicant for approval of registration of prescriptive authority shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 1360.23(D) and (F), and 1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:75 (January 2005), amended LR 38:3174 (December 2012), LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017), LR 45:

§1523. Qualifications of Supervising Physician for Registration of Delegation of Prescriptive Authority

A. Legend Drugs and Medical Devices. To be eligible for approval of registration to delegate authority to prescribe legend drugs or medical devices, or both, to a physician assistant a supervising physician shall:

1. - 2. ...

3. have prepared and signed clinical practice guidelines or protocols that comply with §1527 of these rules.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D)and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:76 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017), LR 45:

§1525. Physician Assistant Application for Registration of Prescriptive Authority; Procedure

A. Physician assistant application for registration of prescriptive authority shall be made upon forms supplied by the board and shall include:

1. ...

2. confirmation that the supervising physician has delegated prescriptive authority to the physician assistant and the nature, extent, and limits thereof, including the Schedules of any controlled substances delegated, as documented in clinical practice guidelines or protocols conforming to §1527;

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D)and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 31:77 (January 2005), LR 45:

§1527. Supervising Physician Application for Registration of Delegation of Prescriptive Authority; Procedure

A. Physician application for approval and registration of delegation of prescriptive authority to a physician assistant shall be made upon forms supplied by the board and shall include:

1. - 3. ...

4. confirmation that clinical practice guidelines or protocols conforming to this Section have been signed by the supervising physician and physician assistant;

A.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1177 (June 2017), LR 45:

§1529. Expiration of Registration of Prescriptive Authority; Renewal

A. Registration of prescriptive authority shall not be effective until the physician assistant receives notification of approval from the board. Such registration and the physician assistant's prescriptive authority shall terminate and become void, null and to no effect upon the earlier of:

1. - 2. ...

3. a finding by the board of any of the causes that would render a physician assistant ineligible for registration of prescriptive authority set forth in §1521.B or a supervising physician ineligible to delegate such authority pursuant to §1523.C;

A.4. - B. ...

C. The PA, together with the SP, shall annually verify the accuracy of registration information on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1177 (June 2017), LR 45:

Subpart 3. Practice

Chapter 45. Physician Assistants

§4506. Services Performed by Physician Assistants Registered to Prescribe Medication or Medical Devices; Prescription Forms; Prohibitions

A.1. - B.5. ...

C. A physician assistant who has been delegated prescriptive authority shall not:

1. ...

2. prescribe medication or medical devices:

a. - c. ...

d. in the absence of clinical practice guidelines or protocols specified by §1527;

C.2.e. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F)six, and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:79 (January 2005), amended LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017), LR 45:

§4507. Authority and Limitations of Supervising Physician

A. - C.5.b. ...

D. An SP may not serve as a PSP for more than eightPAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), and R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:32 (January 1999), LR 34:246 (February 2008), LR 38:1233 (May 2012), amended by the Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017), LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Analysis

It is not anticipated that the proposed rule will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., January 21, 2019.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on January 28, 2019 at 11 a.m. at the office of the Louisiana

State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.,
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Assistants, Licensure and Certification; Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time publication expense of $1,704 in FY 19 for the LA State Board of Medical Examiners (LSBME).

The proposed changes amend the LSBME's physician assistant (PA) rules to conform them to Act 475 of the 2018 Regular and make other substantive changes and technical updates not associated with Act 475. The proposed rule changes increase the number of PAs for whom a physician may serve as the primary supervising physician (PSP) by 4, from 4 to 8; restate and clarify the PA qualifications for prescriptive authority for consistency with Act 475; limit qualifications for PA prescriptive authority to those set forth in Act 475; and make changes to align with current administrative practices. Furthermore, the proposed rule changes include a new section for reinstatement of an expired license, including a delinquent fee for late renewal/reinstatement.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will increase SGR collections for the LSBME by an indeterminable, though likely marginal, amount. Included in the proposed rule changes is a delinquent fee schedule based on the $150 license renewal fee for an individual who fails to renew a license timely. For persons renewing within a year of their license expiring, the delinquent fee is equivalent to the license fee ($150). For persons renewing later than one year, but within two years of license expiration, the delinquent fee is equivalent to twice the renewal fee ($300). Any revenue increase is indeterminable, because the number of persons who may lapse their licenses, as well as when they will renew them, is unknown. However, because a PA may place their license on inactive status without incurring a delinquent fee for later reinstatement, it is not anticipated that this change will have a material impact on revenue collections of the board.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes increase the number of PAs (from 4 to 8) for whom a physician may serve as a primary supervising physician. This change doubles the number of supervising physicians available to serve as PSPs for PAs.

Furthermore, the proposed rule changes clarify that the clinical training required for prescriptive authority must be obtained during, rather than after, completion of an approved PA education program. By limiting the qualifications for such authority to those specified by law, the amendments may expedite PA eligibility for prescriptive authority, which may facilitate patient access to prescriptive care. These changes may have a positive but indeterminable impact on the delivery of health care to the citizens of this state by PAs and their supervising physicians.

Finally, a PA who allows his or her license to lapse without requesting that it be placed on inactive status, as permitted by existing rules (1517), will be required to pay a one-time delinquent fee in association with license reinstatement equal to the license renewal fee ($150) or two times the license renewal fee ($300).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The expansion of the number of PAs for whom a physician may serve as a PSP may increase employment opportunities for PAs in Louisiana to the extent physicians are able to supervise additional PAs.

The proposed rule changes are not anticipated to affect competition.

Vincent A. Culotta, Jr., M.D.	Evan Brasseaux
Executive Director	Staff Director
1812#039	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Practical Nurse Examiners

Types of Licensure and Approved Fees
(LAC 46:XLVII.1703 and 1715)

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII. Section 1703 A.2 and 3, and Section 1715 A. 1, 5, 7, and 11 in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed Rule change to Section 1703 A.2 and 3 is to clarify the current Rule by establishing the length of time an applicant has to take the NCLEX-PN to become a licensed practical nurse.

The purpose of the proposed Rule change to Section 1715 A. 1, 5, 7, and 11 is to increase board revenue. It will allow the board to help off-set deficits in its operating budget due to loss in revenue resulting from no longer issuing paper licenses, name changes on licenses, and license verifications due to the Enhanced Nurse Licensure Compact Law which will go in to affect in 2019.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered Nurses
Subpart 1. Practical Nurses
Chapter 17. Licensure
§1703. Types of Licensure

A. - A.1. ...

2. be permitted to write the examination up to four times within a period of two years from the date of being made eligible, but no later than three years from completion of the practical nursing program;

3. re-enter and successfully complete the entire practical nursing program without advance credits if the fourth writing is unsuccessful or more than three years has elapsed from completion of the practical nursing program before being allowed to take the practical nursing examination again;

B. - D. ….

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:971 and 37:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 10:341 (April 1984), LR

10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), amended LR 42:274 (February 2016), LR 45:

Chapter 17. Licensure

§1715. Approved Fees

A. Fees

1. license by examination—$125;

2. - 4. …

5. reinstatement of license which has been suspended, or which has lapsed by nonrenewal—$200;

6. …

7. delinquency fee in addition to renewal fee for nursing license (per year delinquent)—$100;

8. - 10. ...

11. evaluation of credits of out-of-state applicants for Louisiana practical nurse license—$100;

A.12. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:977 as amended Act 272, 1982 and Act 54, 1991.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2618 (November 2000), LR 34:874 (May 2008), LR 40:2578 (December 2014), LR 45:

Family Impact Statement

The proposed amendments to LAC 46:XLVII.Subpart 1 should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; family earnings and family budget; the behavior and personal responsibility of children; and/or the ability of the family or 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, it is anticipated that the proposed amendments 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

The proposed amendments 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 foreseeable effect on:

1. Is there an effect on the staffing level requirements or qualifications required to provide the same level of service? There will be no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. Is there a total direct and indirect effect on the cost to the providers to provide the same level of service? There is not a direct or indirect effect on the cost to the providers to provide the same level of service.

3. What is the overall effect on the ability of the provider to provide the same level of service? There is no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments until 4 p.m., December 9, 2018, to M. Lynn Ansardi, RN, Board of Practical Nurse Examiners, 131 Airline Drive., Suite 301 Metairie, LA 70001.

M. Lynn Ansardi, RN
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Types of Licensure and Approved Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in a one-time expense for the LA State Board of Practical Nurse Examiners (LSBPNE) totaling $1,328 in FY 19. The one-time expense is to publish the notice of intent and the final rule in the Louisiana Register and notification to the licensees/applicants of the rule change.

The proposed change to Section 1703 clarifies the current rules by enumerating the length of time and number of times an applicant has to take the National Council Licensure Examination for Practical Nurses (NCLEX-PN) to become a licensed practical nurse (LPN). In addition, the proposed changes to Section 1715 increase certain licensure fees, examination fees, reinstatement fees of licenses that have been suspended, or which have lapsed by non-renewal, delinquency fees, and evaluation of credits of out-of-state applicants requesting to be licensed in Louisiana (See Part II).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will increase revenue for the LSBPNE by an estimated $76,150 beginning in FY 19 and in subsequent FYs.

The proposed rule changes will increase certain fees for applicants and practical nurses as follows: license by examination fee by $25, from $100 to $125, which will affect approximately 1,136 applicants per year ($25 * 1,136 applicants = $28,400 revenue increase); reinstatement of license which has been suspended, or lapsed by non-renewal by $50, from $150 to $200, which will affect approximately 300 practical nurses ($50 * 300 applicants = $15,000 revenue increase); delinquent license fees by $30, from $70 to $100, which will affect approximately 675 practical nurses ($30 * 675 applicants = $20,250 revenue increase); and evaluation of credits for out-of-state applicant requesting to be licensed in Louisiana by $50, from $50 to $100, which will affect approximately 250 applicants for licensure ($50 * 250 applicants = $12,500 revenue increase).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change affects persons wishing to become LPNs, as it enumerates the length of time an applicant has to take the NCLEX-PN to become a licensed practical nurse. Furthermore, the proposed rule changes will increase certain fees for applicants and LPNs that are estimated to result in an aggregate cost of $76,150 annually (see Part II).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules are not anticipated to affect competition and employment.

M. Lynn Ansardi, RN
Executive Director
1812#002

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Federally Qualified Health Centers
Alternative Payment Methodology
(LAC 50:XI.10703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.10703 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 currently provides reimbursement for services rendered by federally qualified health centers (FQHCs) on a per visit basis under a prospective payment system (PPS) methodology. The department now proposes to amend the provisions governing the reimbursement methodology for FQHCs in order to implement an alternative payment methodology to allow FQHCs to be reimbursed a separate PPS rate for behavioral health and dental services which is at the same rate as the existing all-inclusive encounter PPS rate when such services are rendered on the same day as a medical visit.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 13. Federally-Qualified Health Centers
Chapter 107. Reimbursement Methodology
§10703. Alternate Payment Methodology

A. - D.2.a. ...

E. Effective for dates of service on or after April 1, 2019, the Medicaid Program shall establish an alternative payment methodology for behavioral health services provided in FQHCs by one of the following practitioners:

1. physicians with a psychiatric specialty;
2. nurse practitioners or clinical nurse specialist with a psychiatric specialty;
3. licensed clinical social workers; or
4. clinical psychologist.

F. The reimbursement for behavioral health services will equal the all-inclusive prospective payment system rate on file for the date of service. This reimbursement will be in addition to any all-inclusive prospective payment system rate on the same date for a medical/dental visit.

G. Dental services shall be reimbursed at the all-inclusive encounter prospective payment system rate on file for fee for service for the date of service. This reimbursement will be in addition to any all-inclusive prospective payment system rate made on the same date for a medical/behavioral health visit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1894 (October 2018), LR 44:2162 (December 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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, as it increases access to services in FQHCs and decreases transportation costs by allowing members to obtain medical, dental, and behavioral health services on the same day.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it increases access to services in FQHCs and decreases transportation costs by allowing members to obtain medical, dental, and behavioral health services on the same day.

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 about the proposed Rule 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 submitting written comments is at close of business, 4:30 p.m., on January 29, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, fax to (225) 342-5568, or email to stanley.bordelon@la.gov; however, such request must be received no later than 4:30 p.m. on January 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 24, 2019 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after January 9, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing,

parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Federally Qualified Health CentersAlternative Payment Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated state general fund net programmatic costs of approximately $77,539 for FY 18-19, $495,930 for FY 19-20 and $534,705 for 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 64.67 percent in FY 18-19 and 65.79 percent in FYs 19-20 and 20-21 for the projected non-expansion population, and an FMAP rate of 93.5 percent in FY 18-19, 91.5 percent in FY 19-20 and 90.0 percent in FY 20-21 for the projected expansion population.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately $270,309 for FY 18-19, $1,731,655 for FY 19-20 and $1,794,136 for FY 20-21. 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 percent in FYs 19-20 and 20-21 for the projected non-expansion population, and an FMAP rate of 93.5 percent in FY 18-19, 91.5 percent in FY 19-20 and 90.0 percent in FY 20-21 for the projected expansion population.

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 federally qualified health centers (FQHCs) in order to implement an alternative payment methodology to allow FQHCs to be reimbursed a separate prospective payment system (PPS) rate for behavioral health and dental services which is at the same rate as the existing all-inclusive encounter PPS rate when such services are rendered on the same day as a medical visit. This proposed rule will be beneficial to Medicaid recipients as it reduces the number of FQHC visits required to receive behavioral health and dental services. There are no economic costs to FQHCs, although there may be a reduction in the number of FQHC visits required to receive behavioral health and dental services which could reduce payments to FQHCs. However we anticipate the rule will be beneficial to FQHCs by allowing them to receive reimbursement for behavioral health and dental services, in addition to the current PPS encounter rate. It is anticipated that implementation of this Rule will increase Medicaid programmatic expenditures by approximately $347,308 for FY 18-19, $2,227,585 for FY 19-20 and $2,328,841 for 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
1812#053

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
Transitional Rates for Public Facilities
(LAC 50:VII.32969)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 intermediate care facilities for individuals with intellectual disabilities in order to align the Rule language relative to transitional rates for public facilities with the Medicaid State Plan amendment approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, and to ensure that the provisions are accurately promulgated in a clear and concise manner in the *Louisiana Administrative Code*.

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 C. Public Facilities
§32969. Transitional Rates for Public Facilities

A. - C.6. ...

D. If the community home meets the above criteria and the individuals served require that the community home has a licensed nurse at the facility 24 hours per day, seven days per week, the community home may apply for a supplement to the transitional rate. The supplement to the rate shall not exceed $25.33 per day per individual.

E. - 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:

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 about the proposed Rule 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 submitting written comments is at close of business, 4:30 p.m., on January 29, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, fax to (225) 342-5568, or email to stanley.bordelon@la.gov; however, such request must be received no later than 4:30 p.m. on January 9, 2019.

If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 24, 2019 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after January 9, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Intermediate Care Facilities for Individuals with Intellectual Disabilities Transitional Rates for Public Facilities

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 $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.

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 $216 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 intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to align the Rule language relative to transitional rates for public facilities with the Medicaid State Plan Amendment (SPA) approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), and to ensure that the provisions are accurately promulgated in a clear and concise manner in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not result in costs to ICF/IID service providers for FYs 18-19, 19-20 and 20-21, since this is an administrative change to ensure that the Rule language matches the CMS-approved SPA which does not change the existing transitional reimbursement rate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1812#054

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Rural Health Clinics
Alternative Payment Methodology
(LAC 50:XI.16703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.16703 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 currently provides reimbursement for services rendered by rural health clinics (RHCs) on a per visit basis under a prospective payment system (PPS) methodology. The department now proposes to amend the provisions governing the reimbursement methodology for RHCs in order to implement an alternative payment methodology to allow RHCs to be reimbursed a separate PPS rate for behavioral health and dental services which is at the same rate as the existing all-inclusive encounter PPS rate when such services are rendered on the same day as a medical visit.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 15. Rural Health Clinics
Chapter 167. Reimbursement Methodology
§16703. Alternate Payment Methodology

A. - D.2.a. ...

E. Effective for dates of service on or after April 1, 2019, the Medicaid Program shall establish an alternative payment methodology for behavioral health services provided in RHCs by one of the following practitioners:

1. Physicians with a psychiatric specialty
2. Nurse practitioners or clinical nurse specialists with a psychiatric specialty
3. Licensed clinical social workers
4. Clinical psychologists

F. The reimbursement for behavioral health services will equal the all-inclusive encounter PPS rate on file for fee for service on the date of service. This reimbursement will be in addition to any all-inclusive PPS rate on the same date for a medical/dental visit.

G. Dental services shall be reimbursed at the all-inclusive PPS rate on file for fee for service on the date of service. This reimbursement will be in addition to any all-inclusive PPS rate made on the same date for a medical/behavioral health visit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 40:83 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1903 (October 2018), LR 44:2162 (December 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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, as it increases access to services in RHCs and decreases transportation costs by allowing members to obtain medical, dental, and behavioral health services on the same day.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it increases access to services in FQHCs and decreases transportation costs by allowing members to obtain medical, dental, and behavioral health services on the same day.

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 about the proposed Rule 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 submitting written comments is at close of business, 4:30 p.m., on January 29, 2019. Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, fax to (225) 342-5568, or email to stanley.bordelon@la.gov; however, such request must be received no later than 4:30 p.m. on January 9, 2019.

Public Hearing

If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 24, 2019 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after January 9, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Rural Health Clinics Alternative Payment Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated state general fund programmatic cost of $61,072 for FY 18-19, $383,617 for FY 19-20 and $409,633 for 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 64.67 percent in FY 18-19 and 65.79 percent in FYs 19-20 and 20-21 for the projected non-expansion population, and an FMAP rate of 93.5 percent in FY 18-19, 91.5 percent in FY 19-20 and 90.0 percent in FY 20-21 for projected expansion population.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by $179,530 for FY 18-19, $1,148,864 for FY 19-20 and $1,192,509 for FY 20-21. 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 percent in FYs 19-20 and 20-21 for the projected non-expansion population, and an FMAP rate of 93.5 percent in FY 18-19, 91.5 percent in FY 19-20 and 90.0 percent in FY 20-21 for projected expansion population.

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 rural health clinics (RHCs) in order to implement an alternative payment methodology to allow RHCs to be reimbursed a separate prospective payment system (PPS) rate for behavioral health and dental services which is at the same rate as the existing all-inclusive encounter PPS rate when such services are rendered on the same day as a medical visit. This proposed rule will be beneficial to Medicaid recipients as it reduces the number of RHC visits required to receive behavioral health and dental services. There are no economic costs to RHCs, although there may be a reduction in the number of RHC visits required to receive behavioral health and dental services which could reduce payments to RHCs. However we anticipate the rule will be beneficial to RHCs by allowing them to receive reimbursement for behavioral health and dental services, in addition to the current PPS encounter rate. It is anticipated that implementation of this proposed rule will increase Medicaid programmatic expenditures by approximately $240,062 for FY 18-19, $1,532,481 for FY 19-20 and $1,602,142 for 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
1812#055

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

School-Based Health Services
(LAC 50:XV.Chapter 95 and XXXIII.Chapter 41)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XV.Chapter 95 and XXXIII.Chapter 41 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 and the Office of Behavioral Health propose to amend the provisions governing school-based medical services covered in the Early and Periodic Screening, Diagnosis and Treatment Program and school-based behavioral health services in order to: 1) add services categorized as 504 plans, individual health plans or otherwise medically necessary in addition to those covered by an individual education plan, to the services available for school-based Medicaid claiming; 2) amend the reimbursement methodology to expand allowable billing providers for direct/therapy and nursing services; and 3) add applied behavioral analysis, personal care services and transportation to allowable Medicaid billing.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment
Chapter 95. School-Based Health Services
Subchapter A. School-Based Medicaid Medical Direct Services
§9501. General Provisions

A. EPSDT school-based medical services are provided pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary services provided by a licensed medical provider (physician, optometrist, respiratory therapist, registered nurse, licensed practical nurse, dentist, dental hygienist and chiropractor) within a local education agency (LEA). The goal of these services is to prevent or mitigate disease, enhance care coordination, and reduce costs by preventing the need for tertiary care. Providing these services in the school increases access to health care for children and youth resulting in a more efficient and effective delivery of care.

B. All medical service providers providing school-based medical services are required to maintain an active license that is necessary for the applicable service with the state of Louisiana.

C. School-based medical services shall be covered for all recipients in the school system who are eligible.

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1298 (August 2016), LR 45:

§9503. Covered Services

A. The following school-based medical services shall be covered.

1. Chronic Medical Condition Management and Care Coordination. This is care based on one of the following criteria.

a. The child has a chronic medical condition or disability requiring implementation of a health plan/protocol (examples would be children with asthma, diabetes, or cerebral palsy). There must be a written health care plan based on a health assessment performed by the medical services provider. The date of the completion of the plan and the name of the person completing the plan must be included in the written plan. Each health care service required and the schedule for its provision must be described in the plan.

b. Medication Administration. This service is scheduled as part of a health care plan developed by either the treating physician or the school district LEA. Administration of medication will be at the direction of the physician and within the license of the individual provider and must be approved within the district LEA policies.

c. Implementation of Physician's Orders. These services shall only be provided as a result of receipt of a written plan of care from the child's physician or included in the student's IEP, IHP, 504 plan, IFSP or are otherwise medically necessary for students with disabilities.

d. Repealed.

2. Immunization Assessments. These services are nursing assessments of health status (immunizations) required by the Office of Public Health. This service requires a medical provider to assess the vaccination status of children in these cohorts once each year. This assessment is limited to the following children:

a. children enrolling in school for the first time;

b. pre-kindergarten children;

c. kindergarten children;

d. children entering sixth grade; or

e. any student 11 years of age regardless of grade.

3. EPSDT Program Periodicity Schedule for Screenings. Qualified individuals employed by a school district may perform any of these screens within their licensure. The results of these screens must be made available as part of the care coordination plan of the district. The screens shall be performed according to the periodicity schedule including any inter-periodic screens.

a. - e. Repealed.

4. EPSDT Medical/Nursing Assessment/Evaluation Services. A licensed health care provider employed by a school district may perform services to protect the health status of children and correct health problems. These services may include health counseling and triage of childhood illnesses and conditions.

a. Consultations are to be face-to-face contact in one-on-one sessions. These are services for which a parent would otherwise seek medical attention at physician or health care provider's office. This service is available to all Medicaid individuals eligible for EPSDT.

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 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§9505. Reimbursement Methodology

A. Payment for EPSDT school-based medical services shall be based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using DHH's cost report for medical service cost form based on the direct services cost report.

2. Direct cost shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current medical service providers as allocated to medical services for Medicaid recipients. The direct cost related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for nursing medical. There are no additional direct costs included in the rate.

3. Indirect cost shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA by the allowable costs. There are no additional indirect costs included.

4. To determine the amount of medical services cost that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data is subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. For the medical services, the participating LEAs' actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology.

1. ...

2. Develop Direct Cost—The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's medical services cost report form for all medical service personnel (i.e. all personnel providing LEA medical treatment services covered under the state plan).

3. ...

4. Determine the Percentage of Time to Provide All Medical Services. A time study which incorporates the CMS-approved Medicaid administrative claiming (MAC) methodology for nursing service personnel shall be used to determine the percentage of time nursing service personnel spend on medical services and general and administrative (G and A) time. This time study will assure that there is no duplicate claiming. The G and A percentage shall be reallocated in a manner consistent with the CMS-approved Medicaid administrative claiming methodology. Total G and

A time shall be allocated to all other activity codes based on the percentage of time spent on each respective activity. To reallocate G and A time to medical services, the percentage of time spent on medical services shall be divided by 100 percent minus the percentage of G and A time. This shall result in a percentage that represents the medical services with appropriate allocation of G and A. This percentage shall be multiplied by total adjusted salary cost as determined Paragraph B.4 above to allocate cost to school-based services. The product represents total direct cost.

a. A sufficient number of medical service personnel's time shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus five percent overall.

5. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost as determined under Paragraph B.3 above. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct service cost for all students receiving medical services.

6. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total cost as determined under Paragraph B.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based medical services cost.

C. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the medical services cost report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed medical services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's nursing services. The Medicaid certified cost expenditures from the medical services cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement pending audit that denotes the amount due to or from the LEA. This reconciliation is inclusive of all medical services provided by the LEA.

D. ...

1. The financial oversight of all LEAs shall include reviewing the costs reported on the medical services cost reports against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

3. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2761 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Subchapter B. School-Based EPSDT Transportation Services

§9511. General Provisions

A. A special transportation trip is only billable to Medicaid on the same day that a Medicaid-eligible child is receiving IDEA services included in the child's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan (IHP), an individualized family service plan (IFSP), or are otherwise medically necessary and the transportation is provided in a vehicle that is part of special transportation in the LEA's annual financial report certified and submitted to the Department of Education. The need for transportation must be documented in the child's IEP, IHP, 504 plan, IFSP or are otherwise medically necessary.

B. School-based EPSDT transportation services shall be covered for all recipients in the school system who are eligible for the service.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§9515. Reimbursement Methodology

A. Payment is based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider, which is the parish or city. Each local education agency (LEA) shall determine cost annually by using LDH's cost report for special transportation (transportation cost report) form as approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) November 2005.

1. Direct cost is limited to the cost of fuel, repairs and maintenance, rentals, contracted vehicle use cost and the amount of total compensation (salaries and fringe benefits) of special transportation employees or contract cost for contract drivers, as allocated to special transportation services for Medicaid recipients based on a ratio explained in Step 4 below.

2. Indirect cost is derived by multiplying the direct cost by the cognizant agency's unrestricted indirect cost rate assigned by the Department of Education to each LEA. There are no additional indirect costs included.

B. The transportation cost report initially provides the total cost of all special transportation services provided, regardless of payer. To determine the amount of special transportation costs that may be attributed to Medicaid, the ratio of Medicaid covered trips to all student trips determined in step 4 below is multiplied by total direct cost. Trip data is derived from transportation logs maintained by drivers for each one-way trip. This ratio functions in lieu of the time study methodology and student ratio used for the direct services cost report. Cost data on the transportation cost report is subject to certification by each parish and serves as the basis for obtaining Federal Medicaid funding.

C. The participating LEA's actual cost of providing specialized transportation services will be claimed for Medicaid FFP based on the methodology described in the steps below. The state will gather actual expenditure information for each LEA through the LEA's payroll/benefits and accounts payable system. These costs are also reflected

in the annual financial report (AFR) that all LEAs are required to certify and submit to the Department of Education. All costs included in the amount of cost to be certified and used subsequently to determine the reconciliation and final settlement amounts as well as interim rates are identified on the CMS approved transportation cost report and are allowed in OMB Circular A-87.

1. Step 1—Develop Direct Cost–Other. The non-federal share of cost for special transportation fuel, repairs and maintenance, rentals, and contract vehicle use cost are obtained from the LEA's accounts payable system and reported on the Transportation Cost Report form.

2. Step 2—Develop Direct Cost-The Payroll Cost Base. Total annual salaries and benefits paid as well as contract cost (vendor payments) for contract drivers are obtained from each LEA's payroll/benefits and accounts payable systems. This data will be reported on the transportation cost report form for all direct service personnel (i.e. all personnel working in special transportation).

3. Step 3—Determine Indirect Cost. Indirect cost is determined by multiplying each LEA's unrestricted indirect rate assigned by the cognizant agency (the Department of Education) by total direct cost as determined under steps 1 and 2. No additional indirect cost is recognized outside of the cognizant agency indirect rate. The sum of direct costs as determined in steps 1 and 2 and indirect cost is total special transportation cost for all students with an IEP.

4. Step 4—Allocate Direct Service Cost to Medicaid. Special transportation drivers shall maintain logs of all students transported on each one-way trip. These logs shall be utilized to aggregate total annual one-way trips which will be reported by each LEA on the special transportation cost report. Total annual one-way trips by Medicaid students will be determined by LDH from the MMIS claims system. To determine the amount of special transportation cost that may be attributed to Medicaid, total cost as determined under step 3 is multiplied by the ratio of one-way trips by Medicaid students to one-way trips for all students transported via special transportation. This results in total cost that may be certified as Medicaid's portion of school based special transportation services cost.

D. Cost Settlement Process. As part of its financial oversight responsibilities, the department will develop audit and review procedures to audit and process final settlements for certain LEAs. The audit plan will include a risk assessment of the LEAs using paid claim data available from the department to determine the appropriate level of oversight. The financial oversight of all LEAs will include reviewing the costs reported on the direct services and transportation cost reports against the allowable costs in accordance with OMB Circular A-87, performing desk reviews and conducting limited reviews. For example, field audits will be performed when the department finds a substantial difference between information on the filed direct services and/or transportation cost reports and Medicaid claims payment data for particular LEAs. These activities will be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited.

1. LEAs may appeal audit findings in accordance with LDH appeal procedures.

2. Medicaid will adjust the affected LEA's payments no less than annually when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there will be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

3. If the interim payments exceed the actual, certified costs of an LEA 's Medicaid services, the department will recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

4. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the Bureau will pay this difference to the LEA in accordance with the final actual certification agreement.

5. State Monitoring. If the department becomes aware of potential instances of fraud, misuse or abuse of LEA services and Medicaid funds, it will perform timely audits and investigations to identify and take the necessary actions to remedy and resolve the problem.

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 45:

Subchapter C. School-Based Medicaid Personal Care Services

§9521. General Provisions

A. EPSDT school-based personal care services (PCS) are provided by a personal care assistant pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary within a local education agency (LEA). The goal of these services is to enable the recipient to be treated on an outpatient basis rather than an inpatient basis to the extent that services on an outpatient basis are projected to be more cost effective than services provided on an inpatient basis.

B. All personal care assistants providing school-based personal care services shall not be a member of the recipient's immediate family. (Immediate family includes father, mother, sister, brother, spouse, child, grandparent, in-law, or any individual acting as parent or guardian of the recipient.). Personal care services may be provided by a person of a degree of relationship to the recipient other than immediate family, if the relative is not living in the recipient's home, or, if she/he is living in the recipient's home solely because her/his presence in the home is necessitated by the amount of care required by the recipient. Personal care assistants must meet all training requirements applicable under state law and regulations and successfully complete the applicable examination for certification for PCS.

C. School-based personal care services shall be covered for all recipients in the school system.

D. Personal care services must meet medical necessity criteria as established by the Bureau of Health Services Financing (BHSF) which shall be based on criteria equivalent to at least an intermediate care facility I (ICF-1) level of care; and the recipient must be impaired in at least two of daily living tasks, as determined by BHSF.

E. Early and periodic screening, diagnosis, and treatment personal care services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling six months), and when changes in the plan of care occur. The plan of care shall be acceptable for submission to BHSF only after the physician signs and dates the completed form.

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 45:

§9523. Covered Services

A. The following school-based personal care services shall be covered:

1. basic personal care, toileting and grooming activities, including bathing, care of the hair and assistance with clothing;

2. assistance with bladder and/or bowel requirements or problems, including helping the client to and from the bathroom or assisting the client with bedpan routines, but excluding catheterization;

3. assistance with eating and food, nutrition, and diet activities, including preparation of meals for the recipient only;

4. performance of incidental household services essential to the client's health and comfort in her/his home; and

EXAMPLES: Changing and washing bed linens and rearranging furniture to enable the recipient to move about more easily in his/her own home.

5. accompanying, but not transporting, the recipient to and from his/her physician and/or medical facility for necessary medical services.

B. EPSDT personal care services are not:

1. to be provided to meet childcare needs nor as a substitute for the parent in the absence of the parent;

2. allowable for the purpose of providing respite care to the primary caregiver; and

3. reimbursable when provided in an educational setting if the services duplicate services that are or must be provided by the Department of Education.

C. Documentation for EPSDT PCS provided shall include at a minimum, the following:

1. documentation of approval of services by BHSF or its designee;

2. daily notes by PCS provider denoting date of service, services provided (checklist is adequate);

3. total number of hours worked;

4. time period worked;

5. condition of recipient;

6. service provision difficulties;

7. justification for not providing scheduled services; and

8. any other pertinent information.

D. There must be a clear audit trail between:

1. the prescribing physician;

2. the local education agency;

3. the individual providing the personal care services to the recipient; and

4. the services provided and reimbursed by Medicaid.

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 45:

§9525. Reimbursement Methodology

A. Payment for EPSDT school-based personal care services shall be based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using LDH's cost report for personal care service cost form based on the direct services cost report.

2. Direct cost shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current personal care service providers as allocated to personal care services for Medicaid recipients. The direct cost related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for personal care services. There are no additional direct costs included in the rate.

3. Indirect cost shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA by the allowable costs. There are no additional indirect costs included.

4. To determine the amount of personal care services cost that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data is subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. For the personal care services, the participating LEAs' actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology.

1. The state shall gather actual expenditure information for each LEA through its payroll/benefits and accounts payable system.

2. Develop Direct Cost-The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's personal care services cost report form for all personal care service personnel (i.e. all personnel providing LEA personal care treatment services covered under the state plan).

3. Adjust the Payroll Cost Base. The payroll cost base shall be reduced for amounts reimbursed by other funding sources (e.g. federal grants). The payroll cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

4. Due to the nature of personal care services, 100 percent of the personal care provider's time will be counted as reimbursable. Personal care providers will not be subject to a time study.

5. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost as determined under Paragraph B.3 above. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct service cost for all students receiving personal care services.

6. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total cost as determined under Paragraph B.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based personal care services cost.

C. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the personal care services cost report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed personal care services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's nursing services. The Medicaid certified cost expenditures from the personal care services cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement pending audit that denotes the amount due to or from the LEA. This reconciliation is inclusive of all personal care services provided by the LEA.

D. Cost Settlement Process. As part of its financial oversight responsibilities, the department shall develop audit and review procedures to audit and process final settlements for certain LEAs. The audit plan shall include a risk assessment of the LEAs using available paid claims data to determine the appropriate level of oversight.

1. The financial oversight of all LEAs shall include reviewing the costs reported on the personal care services cost reports against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

3. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

4. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

5. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

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 45:

Subchapter D. School-Based Therapy Services

§9531. General Provisions

A. EPSDT school-based therapy services are provided pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary within a local education agency (LEA). School-based therapy services include physical therapy, occupational therapy and other services, including services provided by audiologists and services for individuals with speech, hearing and language disorders, performed by, or under the direction of, providers who meet the qualifications set forth in the therapist licensing requirement.

B. Therapists providing school-based therapy services are required to maintain an active therapist license with the state of Louisiana.

C. School-based therapy services shall be covered for all recipients in the school system who are eligible for the service.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§9533. Covered Services

A. The following school-based therapy services shall be covered.

1. Audiology Services. The identification and treatment of children with auditory impairment, using at risk criteria and appropriate audiology screening techniques. Therapists and/or audiologists must meet qualifications established in 42 CFR 440.110(c).

2. Speech Pathology Services. The identification and treatment of children with communicative or oropharyngeal disorders and delays in development of communication skills including diagnosis. Therapists and/or audiologists must meet qualifications established in 42 CFR 440.110(c).

3. Occupational Therapy Services. Addresses the functional needs of a child related to the performance of self-help skills, adaptive behavior, play and sensory, motor and postural development. Therapists must meet qualifications established in 42 CFR 440.110(b).

4. Physical Therapy Services. Designed to improve the child's movement dysfunction. Therapists must meet qualifications established in 42 CFR 440.110(a).

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§9535. Reimbursement Methodology

A. Local education agencies (LEAs) will only be reimbursed for the following Individuals with Disabilities Education Act (IDEA) services:

1. audiology;
2. speech pathology;
3. physical therapy;
4. occupational therapy; and
5. psychological services.

B. Services provided by local education agencies to recipients ages 3 to 21 that are medically necessary and included on the recipient's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary are reimbursed according to the following methodology.

1. Speech/language therapy services shall continue to be reimbursed in accordance with the Medicaid published fee schedule.

C. Cost Reporting. Settlement payments for EPSDT school-based therapy services shall be based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using LDH's cost report for therapy service cost form based on the direct services cost report.

2. Direct cost shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current therapy service providers as allocated to therapy services for Medicaid recipients. The direct cost related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for therapy services. There are no additional direct costs included in the rate.

3. Indirect cost shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA by the allowable costs. There are no additional indirect costs included.

4. To determine the amount of therapy services cost that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data is subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

D. For the therapy services, the participating LEAs' actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology.

1. The state shall gather actual expenditure information for each LEA through its payroll/benefits and accounts payable system.

2. Develop Direct Cost-The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's therapy services cost report form for all therapy service personnel (i.e. all personnel providing LEA therapy treatment services covered under the state plan).

3. Adjust the Payroll Cost Base. The payroll cost base shall be reduced for amounts reimbursed by other funding sources (e.g. federal grants). The payroll cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

4. Determine the Percentage of Time to Provide All Therapy Services. A time study which incorporates the CMS-approved Medicaid administrative claiming (MAC) methodology for therapy service personnel shall be used to determine the percentage of time therapy service personnel spend on therapy services and general and administrative (G and A) time. This time study will assure that there is no duplicate claiming. The G and A percentage shall be reallocated in a manner consistent with the CMS-approved Medicaid administrative claiming methodology. Total G and A time shall be allocated to all other activity codes based on the percentage of time spent on each respective activity. To reallocate G and A time to therapy services, the percentage of time spent on therapy services shall be divided by 100 percent minus the percentage of G and A time. This shall result in a percentage that represents the therapy services with appropriate allocation of G and A. This percentage shall be multiplied by total adjusted salary cost as determined Paragraph B.4 above to allocate cost to school based services. The product represents total direct cost.

a. A sufficient number of therapy service personnel shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus five percent overall.

5. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost as determined under Paragraph D.3 above. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct service cost for all students receiving therapy services.

6. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total cost as determined under Paragraph D.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based therapy services cost.

E. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the therapy services cost report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed therapy services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's therapy services. The Medicaid certified cost expenditures from the therapy services cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement pending audit that denotes the amount due to or from the LEA. This reconciliation is inclusive of all therapy services provided by the LEA.

F. Cost Settlement Process. As part of its financial oversight responsibilities, the department shall develop audit and review procedures to audit and process final settlements for certain LEAs. The audit plan shall include a risk

assessment of the LEAs using available paid claims data to determine the appropriate level of oversight.

1. The financial oversight of all LEAs shall include reviewing the costs reported on the therapy services cost reports against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

3. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

4. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

5. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

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 45:

Part XXXIII. Behavioral Health Services

Subpart 5. School Based Behavioral Health Services

Chapter 41. General Provisions

§4101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for school based behavioral health services rendered to children and youth with behavioral health disorders. These services shall be administered under the authority of the Department of Health.

B. The school based behavioral health services rendered to children with emotional or behavioral disorders are medically necessary behavioral health services provided to Medicaid recipients in accordance with an individualized service plan, a section 504 accommodation plan pursuant to 34 C.F.R. §104.36, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2171 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

§4103. Recipient Qualifications

A. ...

B. Qualifying children and adolescents must have been determined eligible for Medicaid and behavioral health services covered under Part B of the Individuals with Disabilities Education Act (IDEA), with a written service plan (an IEP, section 504 plan, individualized health care plan (IHP), or an individualized family service plan (IFSP)) which contains medically necessary services recommended by a physician or other licensed practitioner, within the scope of his or practice under state law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

Chapter 43. Services

§4301. General Provisions

A. The Medicaid Program shall provide coverage for behavioral health services pursuant to §1905(a) of the Social Security Act which are addressed in the IEP, section 504 plan, IHP, IFSP or otherwise medically necessary, and that correct or ameliorate a child's health condition.

B. Services must be performed by qualified providers who provide school based behavioral health services as part of their respective area of practice (e.g. psychologist providing a behavioral health evaluation). Services rendered by certified school psychologists must be supervised consistent with R.S. 17:7.1.

1. Applied behavior analysis-based (ABA) services rendered in school-based settings must be provided by, or under the supervision of, a behavior analyst who is currently licensed by the Louisiana Behavior Analyst Board, or a licensed psychologist or licensed medical psychologist, hereafter referred to as the licensed professional. Payment for services must be billed by the licensed professional

C. - 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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

§4303. Covered Services

A. ...

B. The following school based behavioral health services shall be reimbursed under the Medicaid Program:

1. ...

2. rehabilitation services, including community psychiatric support and treatment (CPST);

3. addiction services; and

4. environmental modification using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the direct

observation, measurement and functional analysis of the relations between environment and behavior.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:384 (February 2015), LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

§4305. Service Limitations and Exclusions

A. The Medicaid Program shall not cover school based behavioral health services performed solely for educational purposes (e.g. academic testing). Services that are not reflected in the IEP, section 504 plan, IHP or IFSP (as determined by the assessment and evaluation) shall not be covered.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:401 (February 2012), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

Chapter 45. Provider Participation

§4501. Local Education Agency Responsibilities

A. - D. ...

E. Anyone providing behavioral health services must be operating within the scope of practice of their applicable license. The provider shall create and maintain documents to substantiate that all requirements are met.

F. - F.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:401 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:385 (February 2015), LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

Chapter 47. Payments

§4701. Reimbursement Methodology

A. Payments for school based behavioral health services shall be based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using LDH's cost report for behavioral health service cost form based on the direct services cost report.

2. Direct cost shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current behavioral health service providers as allocated to medical services for Medicaid recipients. The direct cost related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for behavioral health services. There are no additional direct costs included in the rate.

3. Indirect cost shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA. There are no additional indirect costs included.

4. To determine the amount of behavioral health services cost that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data is subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. For the medical services, the participating LEAs' actual cost of providing the services shall be claimed for federal financial participation (FFP) based on the following methodology.

1. The state shall gather actual expenditure information for each LEA through its payroll/benefits and accounts payable system.

2. Develop Direct Cost-The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's behavioral health services cost report form for all behavioral health service personnel (i.e. all personnel providing LEA behavioral health treatment services covered under the state plan).

3. Adjust the Payroll Cost Base. The payroll cost base shall be reduced for amounts reimbursed by other funding sources (e.g. federal grants). The payroll cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

4. Determine the Percentage of Time to Provide All behavioral health Services. A time study which incorporates the CMS-approved Medicaid administrative claiming (MAC) methodology for nursing service personnel shall be used to determine the percentage of time nursing service personnel spend on behavioral health services and general and administrative (G and A) time. This time study will assure that there is no duplicate claiming. The G and A percentage shall be reallocated in a manner consistent with the CMS-approved Medicaid administrative claiming methodology. Total G and A time shall be allocated to all other activity codes based on the percentage of time spent on each respective activity. To reallocate G and A time to behavioral health services, the percentage of time spent on behavioral health services shall be divided by 100 percent minus the percentage of G and A time. This shall result in a percentage that represents the behavioral health services with appropriate allocation of G and A. This percentage shall be multiplied by total adjusted salary cost as determined Paragraph B.4 above to allocate cost to school based services. The product represents total direct cost.

a. A sufficient number of behavioral health service personnel's time shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus 5 percent overall.

5. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost as determined under Paragraph B.3 above. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct

service cost for all students receiving behavioral health services.

6. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total cost as determined under Paragraph B.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based behavioral health services cost.

C. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the behavioral health services cost report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed behavioral health services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's nursing services. The Medicaid certified cost expenditures from the behavioral health services cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement pending audit that denotes the amount due to or from the LEA. This reconciliation is inclusive of all behavioral health services provided by the LEA.

1. – 2. Repealed.

D. Cost Settlement Process. As part of its financial oversight responsibilities, the department shall develop audit and review procedures to audit and process final settlements for certain LEAs. The audit plan shall include a risk assessment of the LEAs using available paid claims data to determine the appropriate level of oversight.

1. The financial oversight of all LEAs shall include reviewing the costs reported on the behavioral health services cost reports against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

3. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

4. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

5. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:401 (February 2012), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:

§4703. Cost Calculations

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:401 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), repealed by the 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 by increasing access to school-based medical and behavioral health services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by increasing access to school-based medical and behavioral health 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 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. However, this proposed Rule may have a positive impact on the provider's ability to provide the same level of service as described in HCR 170 due to increased payments in state fiscal year 20-21 for provision of these school-based medical and behavioral health services.

Public Comments

Interested persons may submit written comments about the proposed Rule 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 submitting written comments is at close of business, 4:30 p.m., on January 29, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, fax to (225) 342-5568, or email to stanley.bordelon@la.gov; however, such request must be received no later than 4:30 p.m. on January 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 24, 2019 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after January 9, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: School-Based Health Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of $2,646 for FY 18-19 and federal by $23,144,004 for FY 20-21. The state match for the school based claiming program in FY 20-21 shall be funded through Certified Public Expenditures of non-state funds from local governmental entities to the department to secure federal match to fund the increase in payments. It is anticipated that $5,292 ($2,646 SGF and $2,646 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 65.79 percent for FY 20-21 and 90.0 percent in FY 20-21 for the projected expansion population.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately $2,646 for FY 18-19 and $23,144,004 for FY 20-21. It is anticipated that $2,646 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 65.79 percent for FY 20-21 and 90.0 percent in FY 20-21 for the projected expansion population.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing school-based medical services covered in the Early and Periodic, Diagnosis and Treatment (EPSDT) Program and school-based behavioral health services in order to: 1) add services categorized as 504 plans, individual health plans or otherwise medically necessary in addition to those covered by an individual education plan, to the services available for school-based Medicaid claiming; 2) amend the reimbursement methodology for school-based health services to expand the allowable billing providers for behavioral health, direct/therapy services and nursing services; and 3) add Applied Behavioral Analysis, Personal Care Services and transportation to allowable Medicaid billing. Providers of medical and behavioral health school-based services will benefit from implementation of this proposed Rule since the additional services are currently being provided in school settings, but no Medicaid reimbursement is being claimed. This proposed rule will allow Local Education Authorities (LEAs) to be reimbursed for these expenses. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for school-based health services by approximately $23,144,004 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 and employment.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1812#056	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Telemedicine
Claim Submissions
(LAC 50:I.503)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to 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 telemedicine in order to revise the procedures for claim submissions to comply with recommendations by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and align with current managed care organization practices.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 1. General Provisions
Chapter 5. Telemedicine
§503. Claim Submissions

A. Medicaid covered services provided via an interactive audio and video telecommunications system (telemedicine) shall be identified on claim submissions by appending the Health Insurance Portability and Accountability Act (HIPAA) of 1996 compliant place of service (POS) or modifier to the appropriate procedure code, in line with current policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2032 (August 2005), amended by the Department of Health, Bureau of Health Services Financing, 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, 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 about the proposed Rule 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 submitting written comments is at close of business, 4:30 p.m., on January 29, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, fax to (225) 342-5568, or email to stanley.bordelon@la.gov; however, such request must be received no later than 4:30 p.m. on January 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 24, 2019 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after January 9, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Telemedicine
Claim Submissions

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 $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.

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 $216 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 telemedicine in order to revise the procedures for claim submissions to comply with recommendations by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and align with current managed care organization practices. Implementation of this proposed Rule has no fiscal impact as this is a procedural change to the claims billing process only. It is anticipated that implementation of this proposed rule will not have economic costs, but may be beneficial to providers of telemedicine services in FY 18-19, FY 19-20 and FY 20-21 by ensuring that claim submissions procedures are consistent with current practices.

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
1812#057	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Office for Citizens with Developmental Disabilities

Community and Family Support System—Flexible Family Fund (LAC 48:I.Chapter 161)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that, the Louisiana Department of Health, Office for Citizens with Developmental Disabilities (LDH-OCDD), intends to amend

LAC 48:II.Chapter 61 in the Community and Family Support System. The intent of the amendment is to set forth recommended changes as requested by the Developmental Disabilities Council. The proposed Rule adds two qualifying exceptionalities; allows for evaluations by a licensed professional for all qualifying exceptionalities; removes financial criteria that disqualifies a child who has a Medicaid waiver and whose parent earn 650 percent above poverty; removes requirement that children are actively attending approved educational setting; adds additional requirements prior to termination from the program; allows for the Flexible Family Fund (FFF) stipend to continue during appeals; adds additional FFF application methods and updates language from 'mental disability' to 'intellectual disability'.

Title 48
Public Health—Medical Assistance
Part II. Public Health
Subpart 11. Community and Family Support System
Chapter 161. Community and Family Support System—Flexible Family Fund

§16101. Introduction

A. The first and primary natural environment for all people is the family. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. As with all children, children with developmental disabilities need families and family relationships to develop to their fullest potential. Services for persons with developmental disabilities should be responsive to the needs of the individual and the individual's family, rather than fitting the person into existing programs. Flexible Family Fund assists families in keeping their child with a severe developmental disability at home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), repromulgated LR 33:1135 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2584 (September 2011), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16103. Definitions

Child—an individual under the age of 18.

Developmental Disability—defined in accordance with the Developmental Disability Law at R.S. 28:451.2(12).

Emotional Disturbance Severity Screening Instrument—a tool selected and used by the Local Governing Entity (LGE) providing behavioral health services for the purposes of determining if the individual meets severity criteria to receive the Flexible Family Fund for the exceptionality of emotional disturbance.

E*xceptionality*—all disabilities identified under Individuals with Disabilities Education Act (IDEA), including gifted and/or talented as defined in state law.

Family—the basic family unit consists of one or more adults and children related by blood, marriage or adoption, and who reside in the same household.

Flexible Family Fund (formerly Cash Subsidy Program)—a monetary stipend paid to families of eligible children to assist in keeping their child with a severe disability at home.

Independent Education Evaluation (IEE)—an evaluation conducted by a qualified examiner not employed by the local education agency (LEA) responsible for the education of the child as a substitute for the evaluation of the child obtained by the LEA in the event a parent disagrees with the LEA's evaluation.

Individualized Education Program (IEP)—a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 C.F.R. 300.324 through 34 C.F.R. 300.328.

Intellectual/Developmental Disabilities (IDD) Screening Checklist—a tool used by the Local Governing Entity (LGE)for applicants of Flexible Family Fund, who have a qualifying exceptionality, to determine if the child meets the definition of Developmental Disability in accordance with R.S. 28:451.2(12).

Intellectual/Developmental Disabilities Severity Screening Instrument—a tool used by the LGE for applicants for the Flexible Family Fund, who have a qualifying exceptionality and have met the criteria on the Intellectual / Developmental Disabilities (IDD) Screening Checklist, to screen the degree of limitation and impact of the child's developmental disability on the child's functioning.

Licensed Health Professional—a person credentialed to provide health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians, psychiatrists, psychologists, social workers, counselors, nurse practitioners, etc.

Local Education Agency (LEA)—a public board of education or other public authority legally constituted within Louisiana for administrative control and direction of or to perform a service function for public elementary or secondary schools in a city, parish, or other local public school district or other political subdivision. The term includes an education service agency and special schools and school districts as that term is used in R.S. 17:1945 and any other public institution or agency having administrative control and direction of a public elementary or secondary school.

Local Governing Entity (LGE)—a human services district or authority with local accountability and management of behavioral health, intellectual disability, and developmental disability services. There are 10 LGEs, each responsible for a geographic region within the state.

Office of Behavioral Health (OBH)—the office within the Department of Health charged with performing the functions of the state which oversee services and continuity of care for the prevention, detection, treatment, rehabilitation, and follow-up care of mental and emotional illness in Louisiana and performing functions related to mental health. It is also charged with performing the functions of the state relating to the care, training, treatment, and education of those suffering from substance-related or addictive disorders and the prevention of substance-related and addictive disorders and administering the substance-related and addictive disorders programs in the state.

Office for Citizens with Developmental Disabilities (OCDD)—the office within the Department of Health that is responsible for the programs and functions of the state

relating to the care, training, treatment, and education of people diagnosed with intellectual and developmental disabilities.

Qualifying Exceptionality—exceptionalities which have been identified as meeting the criteria to be considered for the Flexible Family Fund. A qualifying exceptionality is one of the following:

1. autism;
2. deaf-blindness (deaf and blind);
3. intellectual disability—severe;
4. intellectual disability—moderate with a behavior intervention or individual healthcare plan;
5. intellectual disability—mild with a behavior intervention or individual healthcare plan;
6. multiple disabilities;
7. orthopedic impairment;
8. other health impaired;
9. traumatic brain injury;
10. developmentally delayed for children ages three through eight years;
11. emotional disturbance (for Flexible Family Fund administered by the local governing entity providing behavioral health services);
12. EarlySteps eligibility for children until the age of three may also be considered for Flexible Family Fund.

Responsible Caregiver—a child's natural or adoptive mother or father, legal, testamentary, or dative tutor, or the person who is legally responsible, but not financially compensated, to act as caregiver for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2584 (September 2011), LR 40:1523 (August 2014) , amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16105. Application Process

A. Applications for flexible family fund will be accepted by email, fax, mail and in person in the office of the local governing entity (LGE) for the region in which the child resides. There is no closing date for accepting applications.

B. The responsible caregiver is responsible for completing the application and submitting all required documentation related to the application.

C. Applications will be maintained on the waiting list by date/time order of application, only in the region in which the child lives; no child may be placed on a waiting list or receive a flexible family fund from more than one region or agency.

D. For the developmental disabilities exceptionalities, a completed application must be submitted with appropriate documentation for a qualifying exceptionality. Appropriate documentation includes one of the following:

1. the most recent, current within a year individualized family services plan (IFSP) (for EarlySteps eligibility for infants and toddlers until age three);
2. the most recent report, current within a year, from the Louisiana Department of Education (LDOE) special school programs pupil appraisal services showing the child's condition meets LDOE Bulletin 1508 criteria for one of the qualifying exceptionalities;
3. the most recent, current within a year, signed by school staff and parent/guardian individualized education plan (IEP) listing the child's exceptionality as one of the qualifying exceptionalities;
4. a report, current within a year, from a licensed health professional which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for one of the qualifying exceptionalities;
5. a current, within a year independent education evaluation (IEE) which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for one of the qualifying exceptionalities;
6. a current, within a year approved home study plan with a current within three years LDOE special school programs pupil appraisal services report showing the child's condition meets LDOE Bulletin 1508 criteria for one of the qualifying exceptionalities; or
7. an annual individual plan, current within a year, signed by school staff and parent/guardian, listing the child's exceptionality, created by schools approved by the LDOE to provide educational services to children with one of the qualifying exceptionalities, e.g., The school choice program for certain students with exceptionalities; or

E. For the exceptionality of emotional disturbance, a completed application must be submitted with the appropriate documentation of an emotional disturbance. Appropriate documentation includes one of the following:

1. a current treatment plan from a licensed community behavioral health center or evidence of an interagency service coordination process;
2. the most recent report, current within a year, from the LDOE special school programs pupil appraisal service showing the child's condition meets LDOE Bulletin 1508 criteria for emotional disturbance;
3. the most recent, current within a year, signed by school staff and parent/guardian IEP listing the child's exceptionality as emotional disturbance or its equivalent;
4. a report, current within a year, from a licensed health professional which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for emotional disturbance or its equivalent;
5. a current, within a year IEE which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for emotional disturbance or its equivalent;
6. a current, within a year approved home study plan with a current within three years LDOE special school programs pupil appraisal services report showing the child's condition meets LDOE Bulletin 1508 criteria for emotional disturbance or its equivalent; or
7. for a student who has been evaluated by a LEA, determined to have an exceptionality of emotional disturbance, and is deemed eligible to participate in the school of choice program for certain students with exceptionalities, an IEP or a services plan for any service in accordance with 34 CFR 300.37 or a nonpublic school

created plan resulting from a determination of the evaluation of the student by a LEA that the student requires services for emotional disturbance.

F. The responsible caregiver shall provide appropriate documentation of a qualifying exceptionality annually in order for the child to maintain eligibility for the flexible family fund waiting list.

G. A new application can be submitted at any time a flexible family fund is terminated or denied for any reason other than exceeding the eligible age for participation in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2585 (September 2011), LR 40:1523 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16107. Determining Children Eligible for the Flexible Family Fund

A. The local governing entity (LGE) shall be responsible for determination of eligibility of all applicants for the flexible family fund for which they have responsibility.

B. To be found eligible for the flexible family fund on the basis of a qualifying intellectual/developmental disability exceptionality, four criteria must be satisfied:

1. A complete, signed application must be submitted;
2. The qualifying documentation must be submitted;
3. The child must meet the established criteria on the intellectual/developmental disabilities (IDD) screening checklist; and
4. The child must meet the established level of severity as measured by the intellectual/developmental disabilities severity screening instrument that is specified in the LGE's policy manual.

C. To be found eligible for the flexible family fund on the basis of the qualifying exceptionality of emotional disturbance, the following criteria must be satisfied:

1. a complete, signed application must be submitted;
2. the qualifying documentation must be submitted; and
3. the child must meet the established level of severity, specific to the exceptionality of emotional disturbance as measured by the emotional disturbance severity screening instrument that is specified in the LGE's policy manual.

D. A redetermination for eligibility will occur annually.

E. If at any time during the initial determination of eligibility, the responsible caregiver requests a re-evaluation by the local education agency (LEA) or licensed health provider of the child's exceptionality, the eligibility determination process will be held open for the re-evaluation plus 10 working days. Upon a determination of eligibility, flexible family funds will begin in the month that the next opportunity becomes available.

F. If at any time during the annual determination of eligibility, the responsible caregiver requests a re-evaluation by the LEA or licensed health provider, the child will maintain his or her slot for flexible family funds, but the monthly stipend will be put on hold until the re-evaluation becomes available plus 10 working days. Upon a determination of eligibility, flexible family funds will resume in the month the determination is made. Upon determination of ineligibility, flexible family fund will be terminated according to §16111, Terminations.

G. Families with adopted children may also be eligible to participate in the flexible family fund. Families with adopted children who receive a specialized adoption subsidy are not eligible to participate in the flexible family fund; families who have more than one child who are eligible to participate in the Flexible family fund will be eligible for the flexible family fund amount for each qualifying child.

H. Children who receive a home and community-based services waiver are eligible to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2586 (September 2011), LR 40:1523 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16109. Payment Guidelines

A. The amount of the flexible family fund shall be $258 monthly to families of eligible children with severe disabilities to assist them in keeping their child at home; families may be asked to complete a survey periodically indicating how the flexible family funds are used to assist in keeping their child at home.

B. The termination date for a child attaining age 18 years shall be the last day of the birthday month.

C. If for any reason a recipient receives excess flexible family funds, the agency may follow-up with recoupment of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), LR 40:1524 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16111. Terminations

A. Reasons for termination may include the following:

1. the responsible caregiver establishes residency or domicile outside Louisiana;
2. family requests termination of the flexible family fund stipend;
3. child is placed into a subsidized living setting or resides in a school away from the home or in another state;
4. death of the child;
5. fraud;
6. termination or limitation of funding of the program;

7. failure to comply with the provisions of the individual agreement or the flexible family fund, including the requirement to maintain quarterly contact with the LGE administering the flexible family fund and the requirement to provide required documentation;

8. child's exceptionality or degree of severity no longer meets eligibility criteria; or

9. child attains age 18 years;

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), LR 40:1524 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16113. Ongoing Monitoring

A. The responsible caregiver is responsible for maintaining contact with the LGE administering the flexible family fund at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and flexible family fund are being met.

B. Such quarterly contact shall be accepted by mail, email, fax, face-to-face meetings and telephone provided the responsible caregiver attests that the conditions of eligibility continue to be in effect. Failure to report significant changes in the child's status as described in §16111 may result in disqualification of the child to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16115. Appeals

A. All persons receiving an adverse eligibility determination shall have the right to request a fair hearing from the Division of Administrative Law. Upon being terminated from Flexible Family Fund, the family will receive written notification of closure. The closure letter will include information about their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a Flexible Family Fund for any reason other than exceeding the eligible age for participation in the program. Flexible Family Fund stipends will continue for the duration of any appeal proceeding, unless a recipient is terminated for exceeding the eligible age for participation in the program.

B. The local governing entity (LGE) will prepare a summary of evidence upon being notified of an appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), amended the Department of Health, Office for Citizens with Developmental Disabilities, 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 not have an adverse 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 not have an adverse impact on child, individual, and family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

It is anticipated that the proposed Rule will not have a significant adverse effect on small businesses as defined in the regulatory flexibility act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

After considering HCR 170 of the 2014 Regular Legislative Session, it is anticipated that the proposed Rule change will have no effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;

2. total direct and indirect effect on the cost to the provider to provide the same level of service; or

3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments about the proposed Rule to Tanya Murphy, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is 4:30 p.m. on January 29, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary, Attn: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, fax to (225) 342-5568, or email to stanley.bordelon@la.gov; however, such request must be received no later than 4:30 p.m. on January 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9 AM on Friday, January 25, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after January 9, 2019.

If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or

arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Cindy Rives
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Community and Family Support System—Flexible Family Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to increase expenditures for the Office of Citizen with Developmental Disabilities (OCDD) by approximately $1,171 in FY 19 for the publication of the proposed rule.

The Flexible Family Fund (FFF) Program provides monthly stipends on a first-come, first-serve basis to families of eligible children with severe developmental disabilities from birth to age 18 to help their families meet extraordinary costs.

This rule change is being proposed to implement changes to the Flexible Family Fund (FFF) Program as suggested by the Developmental Disabilities Council. Specifically, the proposed rule adds that children with a mild or moderate disability with a behavior or health plan may qualify for benefits; allows for evaluations by a licensed professional for all qualifying exceptionalities; removes the financial criteria that disqualifies a child who has a Medicaid waiver and whose parents earn 650% above poverty; removes the requirement that children are actively attending an approved educational setting; adds that the department should attempt to contact a recipient 3 times prior to termination from the program; allows for the FFF stipend to continue during appeals; and provides clarifying language and technical updates.

Although this rule changes could result in additional individuals meeting the eligibility requirements for the FFF program, it is not anticipated that OCDD will incur any additional costs or savings as a result of this rule change. FFF is not an entitlement program. Each year, OCDD receives a general fund appropriation for the FFF program. Distributions of these funds are provided to families on a first-come, first-serve basis, and OCDD's expenditures for this program cannot exceed the amount appropriated to it. To the extent that additional funds are appropriated to the FFF program, it is anticipated that more recipients will receive a stipend as a result of the proposed rule change.

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)

The proposed rule changes may have an economic benefit to certain families with children with severe developmental disabilities. Families previously ineligible for FFF financial assistance may now be eligible for benefits because the proposed amendments create additional qualifying exceptionalities and eliminate financial criteria for all families.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no known effect on competition and employment.

Julie Foster Hagan
Assistant Secretary
1812#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Professional Counselors Board of Examiners

Requirements, Fees, and Exemptions
(LAC 46:LX.705, 801, 803, 901 and 1701)

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 to clarify licensure requirements, fees and exemptions.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to amend Chapters 7-9 and 17 for publication in the December 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 7. Application and Renewal Requirements for Licensed Professional Counselors
§705. Renewal

A. - D.1. …

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.

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 41:719 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:

Chapter 8. Licensed Professional Counselor Supervisors
§801. Licensed Professional Counselor Supervisor Requirements

A. -A.1.a. …

b. Counseling Practice. The supervisor must have been practicing mental health counseling minimum of three years post licensure experience.

c. Training in supervision must be consistent with ACA, LCA, NBCC or CACREP standards, and completed within five years of application for board-approved

supervision. Supervisors must have successfully completed either Clauses i or ii below.

i. Graduate-Level Academic Training. At least one graduate-level academic course in counseling supervision equivalent with CACREP. The course must have included at least 45 clock hours (equivalent to a three credit hour semester course) of supervision training.

ii. Professional Training. A professional training program in supervision approved by ACA, LCA, or NBCC. The training program must be a minimum of 25 clock hours of face-to-face interaction with the instructor.

2. - 3. …

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 41:721 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:

§803. Supervised Experience of Provisional Licensed Professional Counselors

A. - A. 11. …

12. Supervisors may employ provisional licensed professional counselors in their private practice setting. 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.

13. ….

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 41:722 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:

Chapter 9. Fees

§901. General

A. - A.6. ...

7. application for expedited review—$60;

8. -10. …

11. late fee for licensure application—$60;

12. late fee for renewal of provisional license—$60;

13. late fee for renewal of appraisal, board-approved supervisor, and other specialty area—$28;

14. - 17. …

19. failure of notification—$50.

B. Late fees will be incurred the day after a licensee's designated renewal deadline (no grace period). No part of any fee shall be refundable under any conditions. The renewal shall be deemed timely when:

B.1 - E. …

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 29:136 (February 2003), amended LR 29:2783 (December 2003), LR 39:1790 (July 2013), LR 41:723, amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:

Chapter 17. Exclusions for Licensed Professional Counselors

§1703. Exemptions

A. …

B. Repealed.

C. Students at any accredited education institution shall be supervised by a professional mental health counselor while carrying out any fieldwork prescribed through coursework. Such students shall clearly indicate his/her student status to the public and the filed in which he/she is being trained.

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 29:136 (February 2003), amended LR 29:2783 (December 2003), LR 39:1790 (July 2013), LR 41:723, 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 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 January 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: Requirements, Fees, and Exemptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in additional costs or savings to state or local governmental units. Revisions included in the proposed rule changes amend professional standards for licensed professional counselor (LPC) supervisors, increase certain licensure fees for LPC supervisors, deletes a provision allowing non-residents licensed in other states to practice in Louisiana for a limited period of time, and makes technical changes to align with current administrative rules and practice.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will increase revenue collections for the Licensed Professional Counselors Board of Examiners (LPC Board) by an indeterminable amount. The proposed rule changes increase the following fees by the following amounts: expedited application review – by $5, from $55 to $60; late fee for licensure application – by $5, from $55 to $60; late fee for renewal of a provisional license – by $5, from $55 to $60; and late for renewal of appraisal, board-approved supervisor, and other specialty areas by $3, from $25 to $28.

For reference, the LPC Board reports 263 expedited application processing fees based upon a three-year average from FYs 16-18. To the extent the LPC Board processes expedited applications in line with historical norms, the board will realize an additional $1,315 in revenues (263 * $5) annually. Furthermore, the LPC Board reports receiving average revenues associated with late fees of $5,940 from FYs 16-18. Because the LPC Board does not delineate reporting its late fees between the aforementioned $25 fee and $55 fee, an exact estimate of the increase in late fees cannot be determined, but it can reasonably be assumed that collections from this source will increase in the aggregate.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will result in increased costs for licensees that have lapsed or that need to expedite their application, as the rule changes increase both fees from $55 to $60. Certification late fees will increase from $25 to $28. The aggregate total cost to licensees is unknown (See Part II).

The proposed rule changes may benefit persons with 3 – 5 years of experience as a licensed professional counselor and the proper training to be an LPC supervisor, as the proposed rule changes reduce the minimum years of practice required to be an LPC supervisor by 2 years, from 5 years to 3 years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may increase the number of persons eligible to serve as LPC supervisors, as the proposed rule changes reduce the minimum years of practice required to be an LPC supervisor from 5 years to 3 years.

Jamie S. Doming
Executive Director
1812#025

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Professional Counselors Board of Examiners

Telehealth (LAC 46:LX.505)

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 to clarify licensure requirements, fees and exemptions.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to adopt §505 for publication in the December 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
§505. Teletherapy Guidelines for Licensees (Formerly Diagnosing for Serious Mental Illnesses)

A. This chapter defines and establishes minimum standards for the delivery of mental health counseling, psychotherapy, and marriage and family therapy services using technology-assisted media. Teletherapy references the provision of counseling and psychotherapy services from a distance which is consistent with the same standards of practice as in-person counseling settings.

B. Teletherapy is defined as a method of delivering mental health counseling, psychotherapy, and marriage and family therapy services as prescribed by R.S. 37:1101 and R.S. 37:1116 using interactive technology-assisted media to facilitate prevention, assessment, diagnosis, and treatment of mental, emotional, behavioral, relational, and addiction disorders to individuals, groups, organizations, or the general public that enables a licensee and a client(s) separated by distance to interact via synchronous video and audio transmission.

C. The board recognizes that safe and effective practices in teletherapy require specific training, skills, and techniques and has set forth the following regulatory standards to ensure competence and safety. This rule shall not be construed to alter the scope of practice of any licensee or authorize the delivery of services in a setting, or in a manner, not otherwise authorized by law. Nothing in this Section shall preclude a client from receiving in-person counseling, psychotherapy, and marriage and family therapy services after agreeing to receive services via telemental health. Teletherapy shall be delivered in real-time (synchronous) using technology-assisted media such as telephonic and videoconferencing through computers and mobile devices. The use of asynchronous modalities (e-mail, chatting, texting, and fax) is not appropriate and shall not be used for teletherapy, except in a crisis to ensure the client's safety and stability.

D. Licensees shall provide services consistent with the jurisdictional licensing laws and rules in both the jurisdiction in which licensee is physically located and where the client is physically located. Licensees providing teletherapy services to clients outside of Louisiana must comply with the regulations in the state in which the client is located at the time of service. The licensee shall contact the licensing board in the state where the client is located and document all relevant regulations regarding teletherapy. A nonresident of Louisiana who wishes to provide teletherapy health services in Louisiana must be licensed by the board.

E. Teletherapy is a specialty area and requires board approval. Licensees who may provide teletherapy must meet the following requirements.

1. The licensee must be licensed in Louisiana.
2. The licensee must be licensed in the state where the client is located if licensing is required.
3. The licensee must have been practicing for at least one year.
4. The Licensee must complete either option below.

a. Graduate-Level Academic Training. At least one graduate-level academic course in telemental health counseling. The course must have included at least 45 clock hours (equivalent to a three-credit hour semester course).

b. Professional Training with a minimum of nine synchronous clock hours in teletherapy. The presenter shall meet continuing education standards established by the board. Teletherapy education/training shall include but is not limited to:

i. appropriateness of teletherapy;
ii. teletherapy theory and practice;

iii. theory integration;
iv. modes of delivery;
v. risk management;
vi. managing emergencies;
vii. legal/ethical issues.

5. Licensees privileged in teletherapy must accrue three clock hours of continuing education during each renewal period.

F. At the onset of teletherapy, the licensee shall obtain verbal and/or written informed consent from the client and shall document such consent in the client's record.

1. Electronic signature(s) and date may be used in the documentation of informed consent.

2. Provisions of informed consent for teletherapy services shall include:

a. mode and parameter of technology-assisted media(s), and technical failure;
b. scheduling and structure of teletherapy;
c. risks of teletherapy;
d. privacy and limits of confidentiality;
e. contact between sessions;
f. emergency plan;
g. consultation and coordination of care with other professionals;
h. referrals and termination of services;
i. information and record keeping;
j. billing and third-party payors;
k. ethical and legal rights, responsibilities, and limitations within and across state lines and/or international boundaries.

G. The licensee shall provide each client with his/her declaration or statement of practice on file with the board office.

H. At the onset of each session the licensee shall verify and document the following.

1. The identity and location of the licensee and the client. If the client is a minor, the licensee must also verify the identity of the parent or guardian consenting to the minor's treatment. In cases were conservatorship, guardianship, or parental rights of the minor client have been modified by the court, the licensee shall obtain and review a copy of the custody agreement or court order before the onset of treatment.

2. The location and contact information of the emergency room and first responders nearest to the client's location.

I. The licensee shall determine if the client may be properly diagnosed and/or treated via teletherapy; and shall affirm that technology-assisted media are appropriate for clients with sensory deficits. The licensee shall affirm the client's knowledge and use of selected technology-assisted media(s) (i.e., software and devices). Clients who cannot be diagnosed or treated properly via teletherapy services shall be dismissed and treated in-person, and/or properly terminated with appropriate referrals. The licensee shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards. The licensee shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy, and shall not reference clients generally or specifically on such formats.

J. Policies and procedures for the documentation, maintenance, access, transmission and destruction of record and information using technology assisted media shall be consistent with the same ethical and regulatory standards for in-person services. Services must be accurately documented in teletherapy services, denoting the distance between the licensee and the client. Documentation shall include verification of the licensee's and client's location, type of service(s) provided the date of service, and duration of service. The licensee shall inform clients of how records are maintained, type of encryption and security assigned to the records, and how long archival storage is maintained.

K. Telesupervision is defined as a method delivering clinical mental health and marriage and family therapy supervision as prescribed by R.S 37:1101 and R.S. 37:1116 using technology-assisted media that enables a supervisor and a supervisee separated by distance to interact via synchronous video and audio transmissions. Up to 25 perfect of total supervision hours may be used within a telesupervision format.

1. Teletherapy supervision may include but is not limited to, the review of case presentation, audio tapes, video tapes, and observation to promote the development of the practitioner's clinical skills.

2. Teletherapy supervision shall be provided in compliance with the same ethical and regulatory standards as in-person supervision.

3. The supervisor shall inform supervisees of the potential risks and benefits associated with telesupervision.

4. The supervisor shall determine if the supervisee may be properly supervised via teletherapy supervision. Supervisees who cannot be supervised via teletherapy supervision shall be restricted to in-person supervision, and/or properly terminated with appropriate referrals.

5. The supervisor shall affirm the supervisee's knowledge and use of selected technology-assisted media(s) (i.e., software and devices).

6. The supervisor shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards.

7. The supervisor shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy supervision, and shall not reference supervisee generally or specifically on such formats.

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 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 January 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: Telehealth

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules are not anticipated to result in any additional costs or savings for state or local governmental units. The proposed rules provide a framework of standards and requirements for persons licensed by the LA Licensed Professional Counselors Board of Examiners (LPC Board) to deliver teletherapy services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules may increase SGR collections for the LPC Board by an indeterminable, though likely marginal amount to the extent new persons seek licensure in Louisiana to provide teletherapy services. The LPC Board requires providers practicing teletherapy to have a Louisiana license. For reference, in-state licenses have accompanying fees of $200 and out-of-state licenses have accompanying fees of $300. Both licenses have biennial renewal fees of $170. To the extent the ability to provide teletherapy services increases the number of licensed providers, the LPC Board will realize increased revenues as a result of the aforementioned fees. Because the number of additional licensees that will apply is unknown, the amount is indeterminable, though it is not anticipated that the number of additional licensees will be significant.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules are expected to increase revenues for continuing education providers by an indeterminable amount, as offering teletherapy course work as this will now be a requirement to those practicing teletherapy. Therefore, licensees will have to take additional continuing education courses to the extent they engage in teletherapy.

The proposed rules include provisions to register as a telehealth provider, which has an indeterminable aggregate impact on practitioners and is dependent upon if they currently have a Louisiana license. For reference, in-state licenses have accompanying fees of $200 and out-of-state licenses have accompanying fees of $300. Both licenses have biennial renewal fees of $170.

The proposed rules may increase receipts for counselors, as they may be able to treat additional persons via teletherapy services. However, they will also incur indeterminable costs associated with taking required continuing education for teletherapy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may increase competition among providers, as having the ability to provide teletherapy services may allow some providers to gain competitively over others.

The proposed rule change is not anticipated to affect employment.

Jamie S. Doming	Gregory V. Albrecht
Executive Director	Chief Economist
1812#024	Legislative Fiscal Officer

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 9—Deferred Payment of Fire Premiums in Connection with the Term Rule (LAC 37:XIII.Chapter 55)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to repeal Regulation 9—Deferred Payment of Fire Premiums in Connection with the Term Rule.

The purpose of Regulation 9 is to provide for premium payment plans for fire insurance policies issued for three or five-year terms. This was a standard policy term when this regulation was promulgated in 1955. The industry standard policy term is now one year. The payment plans provided for in the regulation are no longer needed. Regulation 9 is now obsolete.

Title 37
INSURANCE
PART XIII. Regulations
Chapter 55. Regulation 9 - Deferred Payment of Fire Premiums in Connection with the Term Rule

§5501. Payment of Fire Premiums

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, April 4, 1955, repealed LR 45:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The repealed 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 repealed 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 repealed 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 repealed 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

repealed 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 repealed 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 repealed 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 repealed 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 repealed regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The repealed 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 repealed 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 repealed 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 repealed regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The repealed 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 repealed 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 repealed 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 repealed regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The repealed regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than January 22, 2019, 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, faxed to (225) 342-1632, or emailed to lynette.roberson@ldi.la.gov. 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 9—Deferred Payment of Fire Premiums in Connection with the Term Rule

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 repeals provisions regulating premium payment plans for fire insurance policies that were issued for three or five-year terms. However, the standard policy term is now one year, and policies are no longer issued for three or five-year terms, rendering regulations on policies with three and five-year terms obsolete.

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. Fire insurance policies are no longer issued for three or five-year terms, rendering regulations on policies with such terms obsolete.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will not affect competition or employment.

Nicholas Lorosso
Deputy Commissioner
1812#004

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 16—Investment by Insurers of Part of Premium Paid, Return Guaranteed (LAC 37:XIII.Chapter 61)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to repeal Regulation 16—Investment by Insurers of Part of Premium Paid, Return Guaranteed.

The purpose of Regulation 16 is to regulate insurance policies containing an investment feature whereby the insurer invests amounts paid by the policyholder in excess of the premium and guarantees the return of the excess to the policyholder or his or her beneficiary. This was a common type of insurance policy when the regulation was promulgated in 1958. These types of policies are no longer being issued by insurers. Regulation 16 is now obsolete.

Title 37
INSURANCE
PART XIII. Regulations

Chapter 61. Regulation 16 - Investment by Insurers of Part of Premium Paid, Return Guaranteed

§6101. Policy Directive Number Three to Insurance Companies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, October 1, 1958, repealed LR 45:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The repealed 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 repealed 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 repealed 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 repealed 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 repealed 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 repealed 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 repealed 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 repealed 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 repealed regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The repealed 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 repealed 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 repealed 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 repealed regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The repealed 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 repealed 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 repealed 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 repealed regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The repealed regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than January 22, 2019, 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, faxed to (225) 342-1632, or emailed to lynette.roberson@ldi.la.gov. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North 3rd Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 16—Investment by Insurers of Part of Premium Paid, Return Guaranteed

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any additional costs or savings for state or local governmental units.

The proposed rule changes repeal provisions regulating insurance policies that allow insurers to invest amounts paid by policyholders in excess of policy premiums and guarantee a return of the excess to the policyholder or their beneficiary. This type of insurance policy was common when the regulation was promulgated, but insurers are no longer issuing these types of policies, rendering the accompanying administrative rules obsolete.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will not result in any costs or benefits to directly affected persons or non-governmental groups. Insurers no longer issue policies allowing them to invest amounts paid by policyholders in excess of premiums and guarantee a return of the excess to the policyholder or their beneficiary.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Nicholas Lorusso
Deputy Commissioner
1812#003

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Uniform Local Sales Tax Board

Voluntary Disclosure Agreements
(LAC 72:I.105)

Under the authority of the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., and in accordance with the Uniform Local Sales Tax Administrative Procedure Act, R.S. 47:337.91 et seq., the Louisiana Uniform Local Sales Tax Board proposes to adopt LAC 72:I.105 regarding a uniform voluntary disclosure program for local sales and use tax.

Act 274 of the 2017 Regular Legislative Session enacted R.S. 47:337.102 to establish the Louisiana Uniform Local Sales Tax Board and to define its powers and authority. Under R.S. 47:337.102(F), the board shall promulgate rules to establish a uniform voluntary disclosure program for taxpayers seeking relief from penalties in cases where a liability to more than one local sales and use tax collector is owed, requires the board to accept applications from taxpayers seeking to participate in the program, and authorizes the board to issue a binding recommendation for the waiver of penalties for taxpayers who have complied with program requirements. The purpose of this proposed regulation is to fulfill the board's obligations under the statute.

Title 72
UNIFORM LOCAL SALES TAX
Part I. General Provisions
Chapter 1. Administrative Procedures
§105. Voluntary Disclosure Agreements

A. Definitions. For purposes of this Section, the following terms have the meanings ascribed to them.

Applicant—any association, corporation, estate, firm, individual, joint venture, limited liability company, partnership, receiver, syndicate, trust, or any other entity, combination or group that has a local sales tax liability to more than one local sales and use tax authority and submits or arranges through a representative for The submission of an application to request a voluntary disclosure agreement for said undisclosed local sales tax. Applicants may be registered or unregistered with the collectors. If the application is submitted through a representative, anonymity of the applicant can be maintained until the board issues a binding recommendation for waiver of the delinquent penalty by the collectors.

Application—a completed "Application to Request Voluntary Disclosure Agreement" form filed with the Board and all supplemental information including, but not limited to, cover letters, schedules, reports, and any other documents that provide evidence the applicant has complied with the requirements for a voluntary disclosure agreement. Supplemental information requested by the board or collectors and timely provided by the applicant shall be considered part of the application.

Application Date—the date a fully completed application requesting a voluntary disclosure agreement is received by the board. Supplemental information requested by the board or collectors and timely provided by the applicant shall not extend or delay the application date.

Binding Recommendation—a recommendation by the board, authorized under R.S. 47:337.102(F), declaring that an applicant has complied with the requirements of the voluntary disclosure program and for the waiver of delinquent penalties by the collectors upon full payment of taxes and interest. This recommendation shall be binding absent fraud, material misrepresentation, or misrepresentation of the facts by the taxpayer.

Board—the Louisiana Uniform Local Sales Tax Board and its duly authorized representatives.

Collector—the single collector for a parish as defined in Article VII, Section 3 of the Constitution of Louisiana and the collector's duly authorized representatives.

Delinquent Penalty—penalties imposed pursuant to R.S. 47:337.70 or R.S. 47:337.73 as a result of the failure of the taxpayer to timely make any required return or payment.

Local Sales Tax—a tax imposed by a local taxing authority under the provisions of Article VI, Section 29 of the Constitution of Louisiana.

Local Taxing Authority—a political subdivision of the state authorized to impose sales tax under the provisions of Article VI, Section 29 of the Constitution of Louisiana.

Look-Back Period—the period for which the applicant agrees to disclose and pay the tax and interest due.

Signature Date—the date when a collector physically or electronically signs the voluntary disclosure agreement. If the collector fails to physically or electronically sign the voluntary disclosure agreement within 30 days of notification by the board that the agreement is available for signature, the signature date shall be the thirtieth day after such notification.

Undisclosed Liability—a sales or use tax liability that became due during the look-back period and which has not been determined, calculated, researched, identified by or made known to the collector at the time of disclosure.

Voluntary Disclosure Agreement—a contractual agreement between an applicant and a collector wherein the applicant agrees to voluntarily pay the tax and interest due to a local taxing authority on a previously undisclosed liability involving a local sales or use tax and the collector agrees to waive payment of the whole of the delinquent penalty associated with that liability as such is described in R.S. 47:337.71 and to not pursue sales or use tax liabilities prior to the look-back period listed in the agreement.

B. Program Requirements

1. An undisclosed liability will qualify for a voluntary disclosure agreement if it results from the underpayment or non-payment of sales tax due to an error in the mathematical computation of the tax due on the return, interpretation of the law, or process of reporting the tax due on the return. An undisclosed liability also qualifies if it resulted from the merger or acquisition of a company that previously failed to properly report sales and use taxes to a collector.

a. An error in the mathematical computation of the tax due on the return is an error on the part of the taxpayer in mathematical computation on the face of the return or on any of the supporting documents or the unintentional failure to include all amounts necessary for calculating the correct amount of taxes due on the return.

b. An error in the interpretation of the law is a construction of the law on the part of the taxpayer contrary to the collector's construction of the law that caused the applicant to incorrectly determine that no tax or a smaller amount of tax was due.

c. An error in the process of reporting the tax due on the return is an error, omission, or a mistake of fact of consequence to the determination of the tax liability on the part of the taxpayer.

2. Notwithstanding the provisions of paragraph 1 of this subsection, an applicant shall fail to comply with the requirements for a voluntary disclosure agreement under the following conditions.

a. The applicant is registered as a dealer that is required to report retail sales or sales at retail, as defined in R.S. 47:301(10), to the collector on the application date and the undisclosed liability results from the applicant's failure to file returns for a local sales tax.

b. The undisclosed liability results from the filing of false, fraudulent, or grossly incorrect returns and the circumstances indicate that the taxpayer had intent to defraud the local taxing authority of the tax due under a local ordinance or the Uniform Local Sales Use Tax Code as provided in R.S. 47:337.1, et seq.

c. The applicant has been contacted by the collector to inquire about a tax matter, including but not limited to nexus, a potential tax liability or an audit of the taxpayer's records provided such contact occurred in writing and prior to the application date of the agreement.

d. The applicant is affiliated, as defined by law, with an entity that has been contacted by the collector for the purpose of performing an audit. An applicant shall be considered in compliance with the requirements of the voluntary disclosure program after the audit of the affiliated entity has been completed, provided the undisclosed liability qualifies under the criteria described in Paragraph 1 of this Subsection and the applicant is not disqualified under the criteria listed in Subparagraphs a, b or c of this Paragraph.

3. Notwithstanding the conditions listed in paragraphs 1 and 2 of this subsection, applicants that applied for a voluntary disclosure agreement with a collector prior to the effective date of this rule and subsequently entered into a voluntary disclosure agreement with the collector shall be deemed to have met the program requirements for that local taxing authority.

C. Application and Evaluation of Offer to Enter into a Voluntary Disclosure Agreement

1. Applications to enter into voluntary disclose agreements by taxpayers seeking relief from penalties in cases where a liability to more than one local sales and use tax collector is owed shall be filed on forms provided and in the manner prescribed by the board. The applicant or his authorized representative, acting under the authority of a power of attorney, shall sign the application, provide a statement of the facts, and include any other information or declarations required to verify that the applicant has complied with program requirements. Taxpayers may apply anonymously or disclose their identity on the application form.

2. If unregistered, the applicant shall apply to the collectors for sales tax accounts within 30 days of the application date.

3. The board shall review the application and, based upon the information included therein, determine if the applicant complies with the requirements for a voluntary disclosure agreement.

a. If the board determines from the information included in the application that the applicant has complied with program requirements for a voluntary disclosure agreement, notification of the board's finding shall be sent to the applicant. The notification shall include the following statement:

> The Louisiana Uniform Local Sales Tax Board has reviewed your application and determined from the information included therein that the requirements to qualify for a

voluntary disclosure agreement have been met. Therefore, the Board hereby issues a recommendation for the local sales and use tax collector to enter into a voluntary disclosure agreement and to waive penalties upon full payment of the tax and interest due. As provided in R.S. 47:337.102(F), this recommendation shall be binding on the local sales and use tax collector absent fraud, material misrepresentation, or any such misrepresentation of the facts by the taxpayer.

b. If the board determines from the information included in the application that the applicant has not complied with program requirements for a voluntary disclosure agreement, the board shall send notice of its finding to the applicant with an explanation for the determination. The applicant may present additional information for consideration by the board within 30 days of the date of the notice. The board shall review the additional information and render a final determination regarding the applicant's compliance with program requirements.

i. If the board determines that the applicant has complied with program requirements after considering any additional information provided, a notification of binding recommendation shall be sent to the applicant that includes the statement contained in subparagraph a of this paragraph.

ii. If the board determines that the applicant has not complied with program requirements after considering any additional information provided, the applicant may request the application be sent to the collector for consideration. The agreement may be signed, at the option of the collector, without a binding recommendation from the board.

c. Anonymous applicants who have complied with program requirements shall reveal their legal identity to the board and, if applicable, provide a copy of the power of attorney for the person who submitted the application on their behalf within five business days of receiving notification of the binding recommendation. The legal name of the taxpayer shall be used to prepare the voluntary disclosure agreement for signature.

D. Determining the Look-back Period and Treatment of Periods prior to the Look-back Period

1. Except for taxes collected and not remitted, the look-back period for existing entities shall include that portion of the current calendar year prior to and including the application date and the three immediately preceding calendar years.

2. Except for taxes collected and not remitted, the look-back period for a discontinued, acquired, or merged entity shall include the last calendar year in which the discontinued, acquired, or merged entity had nexus in a jurisdiction and the three immediately preceding calendar years.

3. For taxes collected and not remitted, the look-back period shall include all filing periods in which tax was collected and not remitted up to and including the application date. This look-back period shall not affect the look-back period described in Subparagraphs a or b of this Paragraph for undisclosed liabilities unrelated to tax collected and not remitted.

4. The board or the collectors, in concurrence with the applicant, may adjust the look-back period to accommodate special circumstances.

5. Look-back periods shall be established from the application date, unless the liability results from a merged or acquired entity as described in Paragraph 2 of this Subsection or there is mutual agreement to adjust a look-back period as provided in Paragraph 4 of this Subsection.

6. Periods prior to the look-back period shall be considered part of the voluntary disclosure agreement. However, payment is not required for any taxes due for these periods.

E. Post Approval Procedures and Conditions

1. Once the board determines an applicant has complied with the qualifications for a voluntary disclosure agreement and issues a binding recommendation, the legal name of the taxpayer, which shall appear on the voluntary disclosure agreement, shall be provided to the board. The agreement shall be made available to the collector and the applicant for signature. Each party shall be notified when the agreement has been sent to the other party for signature.

2. The applicant and the collector shall sign the agreement within 30 days of its delivery by the board. The agreement shall become effective upon the signature of both parties. If the collector fails to sign the agreement within 30 days, the thirtieth day after notification by the board shall be the signature date of the agreement for the collector and that date shall be considered the date of the collector's signature. If the applicant fails to sign the agreement within 30 days, the collector may terminate the agreement. However, the collector may grant an extension beyond the 30 days for the applicant to sign the agreement.

3. After the collector and the applicant sign the agreement, the board shall forward a signed copy to each party.

4. Under the agreement, the applicant and the collector agree to suspend prescription for the look-back period as follows:

a. through June 30 of the calendar year subsequent to the signature date when that date occurs on or after January 1 and on or before June 30; and

b. through December 31 of the calendar year subsequent to the signature date when that date occurs on or after July 1 and on or before December 31.

F. Payment of Tax, Interest, and Penalty Due

1. All tax due for the look-back period shall be paid within 60 calendar days of the signature date or within any extension of time granted by the collector beyond 60 calendar days of the signature date. The taxpayer shall include with this payment documentation detailing the local sales tax due by month and year.

2. The collector shall compute the interest and delinquent penalty due for the tax disclosed and prepare a schedule detailing the tax, interest and delinquent penalty. The schedule may be sent by mail, email, or any other appropriate method of delivery to the applicant or his authorized representative. The applicant shall submit payment for the full amount of interest within 30 calendar days from receipt of the schedule or within any extension of time granted by the collector to submit the payment. If payment of the full amount due has not been received at the expiration of such time, the collector may void the

agreement. Once full payment of tax and interest has been received, the collector shall waive any delinquent penalty due.

G. Discovery of Fraud, Material Misrepresentation, or any such Misrepresentation

1. If a collector discovers evidence of fraud, material misrepresentation, or any such misrepresentation of the facts by the taxpayer that were relied upon by the board to determine the applicant met the qualifications for a voluntary disclosure agreement, the collector may:

a. void the agreement and take such administrative, judicial or other legal or equitable action available as if the agreement had never existed; or

b. agree to be bound by the terms of the voluntary disclosure agreement notwithstanding the existence of evidence that indicates the applicant engaged in fraud, material misrepresentation, or any such misrepresentation of the facts.

2. If a collector elects to void the agreement and pursue administrative, judicial or other legal or equitable action available as if the agreement had never existed, the taxpayer may, under rights granted to him by statute, dispute additional liabilities resulting from the collector's determination of fraud, material misrepresentation, or any such misrepresentation of the facts.

H. Information furnished to local taxing authorities under a voluntary disclosure agreement shall be considered and held confidential and privileged by the political subdivisions to the extent provided by R.S. 47:1508.

I. A collector may conduct an audit of the look-back period to confirm that the correct amount of tax has been paid. Interest and penalty may be assessed on tax found due in excess of the amounts reported under the voluntary disclosure agreement. The collector shall not assess additional interest or penalty for amounts reported and paid under the voluntary disclosure agreement except in cases of fraud, material misrepresentation, or any such misrepresentation of the facts by the taxpayer.

J. The terms of the voluntary disclosure agreement shall be valid, binding, and enforceable by and against all parties, including their transferees, successors, and assignees.

K. The board reserves the right to develop policies and procedures to accumulate and monitor information for evaluating the effectiveness of the voluntary disclosure agreement program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.102(C)(2) and (F).

HISTORICAL NOTE: Promulgated by the Louisiana Uniform Local Sales Tax Board, LR 45:

Public Comments

Interested persons may submit written data, views, arguments or comments to J. A. Cline, Jr., Sales Tax Analyst, Louisiana Uniform Local Sales Tax Board, P.O. Box 404, Port Allen, LA 70767. Written comments shall be accepted until 4:30 p.m., January 21, 2019.

Public Hearing

A public hearing shall be held on January 28, 2019, at 10 a.m. in Meeting Room 3 on the first floor of the Louisiana Municipal Association Building, 700 N. 10th Street, Baton Rouge, LA 70802.

Roger Bergeron
Executive Director

1812#006

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Office of Forestry

Adopted Severance Tax Values for 2019

In accordance with LAC 7:XXXIX.105, the Louisiana Department of Agriculture and Forestry, Office of Forestry, hereby publishes the current average stumpage market value of trees, timber and pulpwood for 2019.

Product	Value Per Ton	Tax Rate	Tax Per Ton (2019)
Pine Sawtimber	$31.84	2.25%	$0.72
Hardwood Sawtimber	$34.50	2.25%	$0.78
Pine Chip-n-Saw	$16.87	2.25%	$0.38
Pine Pulpwood	$9.25	5.00%	$0.46
Hardwood Pulpwood	$8.33	5.00%	$0.42

Mike Strain, DVM
Commissioner

1812#067

POTPOURRI

Office of the Governor
Coastal Protection and Restoration Authority

Notice of Availability of the *Deepwater Horizon* Oil Spill Draft Restoration Plan #1.1 and Environmental Assessment; Louisiana Trustee Implementation Group

Action:

Notice of availability of Draft Restoration Plan

Summary:

In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), the Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement (PDARP/PEIS), and the Consent Decree, the Federal and State natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared a Draft Restoration Plan and Environmental Assessment #1.1: Restoration of Queen Bess Island (Draft RP/EA #1.1) describing and proposing construction activities for the restoration of Queen Bess Island. The Queen Bess Island Restoration Project was approved for engineering and design (E&D) in a 2016 restoration plan entitled *Louisiana Trustee Implementation Group Draft Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds* (RP 1). The Queen Bess Island Restoration Project would continue the process of restoring for birds injured as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico.

Dates:

Submitting Comments: We will consider public comments received on or before January 22, 2019.

Public Meeting: The Trustees will host a public meeting on January 3, 2019 in association with the Louisiana Wildlife and Fisheries Commission meeting located at the Wildlife and Fisheries Headquarters Building, 2000 Quail Drive, Baton Rouge, LA. The exact meeting time will be posted on the Trustee's website (see ADDRESSES).

Addresses:

Obtaining Documents: You may download the Draft RP /EA #1.1 from any of the following websites:

- http://www.gulfspillrestoration.noaa.gov
- https://www.doi.gov/deepwaterhorizon/adminrecord
- http://www.la-dwh.com

Alternatively, you may request a CD of the Draft RP/EA #1.1 (see FOR FURTHER INFORMATION CONTACT).

Submitting Comments: You may submit comments on the Draft RP/EA # 1.1 by one of the following methods:

- Via the Web: http://www.gulfspill restoration.noaa.gov/restoration-areas/louisiana
- Via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345. In order to be considered, mailed comments must be postmarked on or before the comment deadline given in DATES.
- In Person*:* Verbal comments may be provided at the public meeting on January 3rd, 2019.

For Further Information Contact:

Nanciann Regalado, via email at nanciann_regalado@fws.gov, via telephone at 678-296-6805, or via the Federal Relay Service at 800–877–8339.

Supplementary Information:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252 – MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The Trustees conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 et seq.). Pursuant to OPA, Federal and state agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. The OPA

further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The Deepwater Horizon Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service,
- U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in Louisiana are now selected and implemented by the Louisiana Trustee Implementation Group (TIG). The Louisiana TIG is composed of the following Trustees:

- U.S. Department of the Interior (DOI), as represented by the National Park Service,
- U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the
- U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- the Louisiana Coastal Protection and Restoration Authority (CPRA);
- the Louisiana Department of Natural Resources (LDNR);
- the Louisiana Department of Environmental Quality (LDEQ);
- the Louisiana Oil Spill Coordinator's Office (LOSCO); and,
- the Louisiana Department of Wildlife and Fisheries (LDWF)

Background

The PDARP/PEIS provides for TIGs to propose phasing restoration projects across multiple restoration plans. A TIG may propose funding a planning phase (e.g., initial engineering, design, and compliance) in one plan for a conceptual project. This would allow the TIG to develop information needed to fully consider a subsequent implementation phase of that project in a future restoration plan. In 2016 the LA TIG included the Queen Bess Island Restoration Project as a preferred alternative to fund E&D in RP #1. After approval, the Queen Bess Island Restoration Project began E&D. It is currently at a stage of E&D where NEPA analyses can be conducted on the design alternatives. Therefore, the Louisiana TIG is proposing the implementation phase for the Queen Bess Island Restoration Project in RP/EA # 1.1.

Overview of the Louisiana TIG Draft RP/EA # 1.1

The Draft RP/EA # 1.1 is being released in accordance with OPA, NRDA regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA, the Consent Decree, and Final PDARP/PEIS.

In the Draft RP/EA # 1.1, the Louisiana TIG proposes a preferred design alternative for the Queen Bess Island Restoration Project, which was approved for E&D in a 2016 Louisiana TIG final restoration plan, under the birds restoration type. After screening six design alternatives, the Louisiana TIG analyzed in detail the preferred design alternative, one other design alternative, and a no action alternative.

The preferred design alternative is intended to continue the process of using DWH restoration funding to restore natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. The total estimated cost for construction of the proposed Queen Bess Island Restoration Project is $16,710,000. Details are provided in the Draft RP/EA # 1.1. Additional restoration planning for the Louisiana Restoration Area will continue.

Next Steps

As described above, the Trustees will hold a public meeting to facilitate the public review and comment process. After the public comment period ends, the Trustees will consider and address the comments received before issuing a Final RP/EA # 1.1.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment-including your personal identifying information-may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Administrative Record

The documents comprising the Administrative Record for this Draft RP/EA # 1.1 can be viewed electronically at the following location: https://www.doi.gov/deepwaterhorizon /adminrecord.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) and its implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Michael S. Ellison
Executive Director

1812#021

POTPOURRI

Office of the Governor
Coastal Protection and Restoration Authority

Public Hearings—Fiscal Year 2020 Draft Annual Plan

The Louisiana Coastal Protection and Restoration Authority (CPRA), will hold the following public hearings to receive public comments on Louisiana's "Fiscal Year 2020 Draft Annual Plan: Integrated Ecosystem Restoration and Hurricane Protection in Coastal Louisiana". The Atchafalaya Basin Program Annual Plan will also be included as part of the CPRA Fiscal Year 2020 Draft Annual Plan.

Jan. 29	5:30 PM Open House 6:00 PM Public Hearing	Lake Charles Civic Center Jean Lafitte Room 900 Lakeshore Drive Lake Charles, LA70601
Jan. 30	5:30 PM Open House 6:00 PM Public Hearing	The Atrium Lakefront Airport 6001 Stars and Stripes Boulevard New Orleans, LA 70127
Jan. 31	5:30 PM Open House 6:00 PM Public Hearing	Houma Terrebonne Civic Center Meeting Room 3 346 Civic Center Boulevard Houma, LA 70360
Feb. 5	5:30 PM Open House 6:00 PM Public Hearing	Bayou Sorrel Library 33415 Highway 75 Plaquemine, LA 70764
Feb. 6	5:30 PM Open House 6:00 PM Public Hearing	Henry Guidry Memorial Park Recreational Building 1015 Park Road Henderson, LA 70517

The CPRA will receive written comments and recommendations on the Fiscal Year 2020 Draft Annual Plan until March 9, 2019. Written comments should be mailed (to arrive no later than March 9, 2019) to the following address:

Coastal Protection & Restoration Authority
Public Comments
150 Terrace Avenue
Baton Rouge, LA 70802

If, because of a disability, you require special assistance to participate, please contact the CPRA Administrative Assistant at 150 Terrace Avenue, Baton Rouge, LA 70802 or by telephone at (225) 342-7308 at least five working days prior to the hearing.

Please visit http://coastal.la.gov/ for more detailed information and copies of the Fiscal Year 2020 Draft Annual Plan which will be posted prior to the public hearings.

For questions regarding the hearings, please contact Chuck Perrodin at (225) 342-7615.

POTPOURRI

Office of the Governor
Office of Financial Institutions

Judicial Interest Rate for 2019

Pursuant to authority granted by La. R.S. 13:4202(B)(1), as amended, the Louisiana Commissioner of Financial Institutions has determined that the judicial rate of interest for calendar year 2019 will be 6 percent per annum.

John Ducrest, CPA
Commissioner

1812#001

POTPOURRI

Department of Health
Board of Dietitians and Nutritionists

Public Hearing—Substantive Changes To Proposed Rule
Registered Dietitians/Nutritionists
(LAC 46:LXIX.Chapters 1-7)

Under the enabling authority of R.S. 37:3085, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Examiners in Dietetics and Nutrition published a Notice of Intent in the July 20, 2018 edition of the *Louisiana Register* to adopt these rules and regulations to provide guidelines for the practice of telenutrition, the creation of an inactive license status, and the revision of the fee schedule to increase certain license and license renewal fees.

The Louisiana Board of Examiners in Dietetics and Nutrition conducted a public hearing on August 29, 2018 to solicit comments and testimony on the proposals. As a result of the consideration of those comments and testimony received, the Board proposes to amend certain portions of the proposed Rule. In response to a request to include the revised Code of Ethics by the Academy of Nutrition and Dietetics which was effective June 1, 2018. In addition, the Board proposes to amend the fees that were published in the proposed Rule.

The original proposal for §117 and §123 is resubmitted, as revised, for publication in the Potpourri section of the *Louisiana Register*. The Legislative Fiscal Office has evaluated the impact of the proposed revisions of the original proposal and has opined that no fiscal or economic impact will result from the suggested revisions proposed in this notice.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXIX. Registered Dietitians/Nutritionists

Chapter 1. Dietitian/Nutritionists

§117. Code of Ethics for Professional Conduct (Formerly §113)

A. Licensees under the Act shall perform their professional duties using the code of ethics adopted by the Board.

B. The Board has adopted the following Academy of Nutrition and Dietetics:

1. *Code of Ethics for the Nutrition and Dietetics Profession* as published: Academy of Nutrition and Dietetics 2018; 1118 (9):1765-1767.

Principles and Standards:

1. Competence and professional development in practice (Non-maleficence) Nutrition and dietetics practitioners shall:

a. Practice using an evidence-based approach within areas of competence, continuously develop and enhance expertise, and recognize limitations.

b. Demonstrate in depth scientific knowledge of food, human nutrition and behavior.

c. Assess the validity and applicability of scientific evidence without personal bias.

d. Interpret, apply, participate in and/or generate research to enhance practice, innovation, and discovery.

e. Make evidence-based practice decisions, taking into account the unique values and circumstances of the patient/client and community, in combination with the practitioner's expertise and judgment.

f. Recognize and exercise professional judgment within the limits of individual qualifications and collaborate with others, seek counsel, and make referrals as appropriate.

g. Act in a caring and respectful manner, mindful of individual differences, cultural, and ethnic diversity.

h. Practice within the limits of their scope and collaborate with the inter-professional team.

2. Integrity in personal and organizational behaviors and practices (Autonomy)

Nutrition and dietetics practitioners shall:

a. Disclose any conflicts of interest, including any financial interests in products or services that are recommended. Refrain from accepting gifts or services which potentially influence or which may give the appearance of influencing professional judgment.

b. Comply with all applicable laws and regulations, including obtaining/maintaining a state license or certification if engaged in practice governed by nutrition and dietetics statutes.

c. Maintain and appropriately use credentials.

d. Respect intellectual property rights, including citation and recognition of the ideas and work of others, regardless of the medium (e.g. written, oral, electronic).

e. Provide accurate and truthful information in all communications.

f. Report inappropriate behavior or treatment of a patient/client by another nutrition and dietetics practitioner or other professionals.

g. Document, code and bill to most accurately reflect the character and extent of delivered services.

h. Respect patient/client's autonomy. Safeguard patient/client confidentiality according to current regulations and laws.

i. Implement appropriate measures to protect personal health information using appropriate techniques (e.g., encryption).

3. Professionalism (Beneficence)

Nutrition and dietetics practitioners shall:

a. Participate in and contribute to decisions that affect the well-being of patients/clients.

b. Respect the values, rights, knowledge, and skills of colleagues and other professionals.

c. Demonstrate respect, constructive dialogue, civility and professionalism in all communications, including social media.

d. Refrain from communicating false, fraudulent, deceptive, misleading, disparaging or unfair statements or claims.

e. Uphold professional boundaries and refrain from romantic relationships with any patients/clients, surrogates, supervisees, or students.

f. Refrain from verbal/physical/emotional/ sexual harassment.

g. Provide objective evaluations of performance for employees, coworkers, and students and candidates for employment, professional association memberships, awards, or scholarships, making all reasonable efforts to avoid bias in the professional evaluation of others.

h. Communicate at an appropriate level to promote health literacy.

i. Contribute to the advancement and competence of others, including colleagues, students, and the public.

4. Social responsibility for local, regional, national, global nutrition and well-being (Justice)

Nutrition and dietetics practitioners shall:

a. Collaborate with others to reduce health disparities and protect human rights.

b. Promote fairness and objectivity with fair and equitable treatment.

c. Contribute time and expertise to activities that promote respect, integrity, and competence of the profession.

d. Promote the unique role of nutrition and dietetics practitioners.

e. Engage in service that benefits the community and to enhance the public's trust in the profession.

f. Seek leadership opportunities in professional, community, and service organizations to enhance health and nutritional status while protecting the public.

Glossary of Terms:

Autonomy: ensures a patient, client, or professional has the capacity and self-determination to engage in individual decisionmaking specific to personal health or practice.

Beneficence: encompasses taking positive steps to benefit others, which includes balancing benefit and risk.

Competence: a principle of professional practice, identifying the ability of the provider to administer safe and reliable services on a consistent basis.

Conflict(s) of Interest(s): defined as a personal or financial interest or a duty to another party which may prevent a person from acting in the best interests of the intended beneficiary, including simultaneous membership on boards with potentially conflicting interests related to the profession, members or the public.

Customer: any client, patient, resident, participant, student, consumer, individual/person, group, population, or organization to which the nutrition and dietetics practitioner provides service.

Diversity: "The Academy values and respects the diverse viewpoints and individual differences of all people. The Academy's mission and vision are most effectively realized through the promotion of a diverse membership that reflects cultural, ethnic, gender, racial, religious, sexual orientation, socioeconomic, geographical, political, educational, experiential and philosophical characteristics of the public it services. The Academy actively identifies and offers opportunities to individuals with varied skills, talents, abilities, ideas, disabilities, backgrounds and practice expertise."

Evidence-based Practice: Evidence-based practice is an approach to health care wherein health practitioners use the best evidence possible, i.e., the most appropriate information available, to make decisions for individuals, groups and populations. Evidence-based practice values, enhances and builds on clinical expertise, knowledge of disease mechanisms, and pathophysiology. It involves complex and conscientious decision-making based not only on the available evidence but also on client characteristics, situations, and preferences. It recognizes that health care is individualized and ever changing and involves uncertainties and probabilities. Evidence-based practice incorporates successful strategies that improve client outcomes and are derived from various sources of evidence including research, national guidelines, policies, consensus statements, systematic analysis of clinical experience, quality improvement data, specialized knowledge and skills of experts.

Justice (social justice): supports fair, equitable, and appropriate treatment for individuals and fair allocation of resources.

Non-Maleficence: is the intent to not inflict harm.

C. All licensees shall be responsible for reporting any and all alleged misrepresentation or violation of the code of ethics and/or Board rules to the Board.

D. A failure to adhere to the above code of ethics, constitutes unprofessional conduct and a violation of lawful rules and regulations adopted by the Board and further constitutes grounds for disciplinary action specified in R.S. 37:3090 of the Dietitian/Nutritionist Practice Act and these rules and regulations and also constitutes grounds for a denial of licensure or a renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary LR 12:12 (January 1984, repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 25:1095 (June 1999), LR 41:1678 (September 2015), LR 44:

§123. Fees (Formerly §119)

A. …

Application for LDN—$145
Application for Provisional LDN—$95
Application for Reinstatement—$150
Duplicate Licensure Certificate—$25
Renewal of Licensure—$80
Renewal of Licensure – Delinquent—$160
Renewal of Licensure – Inactive—$45

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), LR 26:2613 (November 2000), LR 37:2154 (July 2011), LR 45:

Public Hearing

In accordance with R.S. 49:968(H)(2) of the Administrative Procedure Act, a public hearing on these proposed revisions to the original proposal is scheduled for Monday, January 28, 2019 from 10 a.m. to 11 a.m. in the conference room at the board office located at 37283 Swamp Road, Suite 3B, Prairieville, LA 70769. At that time, all interested persons will be afforded an opportunity to submit data, opinions, and arguments, either orally or in writing, regarding the proposed action. The deadline for receipt of all comments is 4:30 p.m. on Friday, January 25, 2019.

Jolie Jones
Executive Director

1812#044

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Malone Oil and Gas Exploration, Inc.	Mira	S	Dominick Estate	001	174748
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Waters	001	176144
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su;Hale	001	176298
Malone Oil and Gas Exploration, Inc.	Mira	S	Dominick swd	004	176360
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Ryan	001	176788
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Spiva	001	177792
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Spiva	002	177793
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Spiva A	001	178785
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Spiva B	001	178990
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Lawton	002	179293
Malone Oil & Gas Exploration, Inc.	Mira	S	Mir 3000 ra su;P W Frank et al	001	179423
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; W B Rowe et al	001	179565
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Spiva A	002	179638
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Ryan	002	179688
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; Baker Land Co	001	179893
Malone Oil and Gas Exploration, Inc.	Mira	S	Mir 3000 ra su; W B Rowe et al	004	180177

Operator	Field	District	Well Name	Well Number	Serial Number
Muslow and Parker	Caddo Pine Island	S	E. K. Smith	043-A	63079(30)
Muslow and Parker	Caddo Pine Island	S	E. K. Smith	070	102147(30)
Muslow and Parker	Caddo Pine Island	S	E. K. Smith	078	114524(30)
Sohio Petroleum Co.	Hog Bayou	L	Amphis-tegina B Unit C	001	47355

Richard P. Ieyoub
Commissioner

1812#027

POTPOURRI

Department of Natural Resources
Office of Conservation
Environmental Division

Hearing Notice (Docket No. ENV 2019-02)

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Thursday, January 31, 2019, at the Delta Grand Theatre, located at 120 S. Market St., Opelousas, LA.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Eagle Oil, LLC, P.O. Box 53543, Lafayette, LA 70503. 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 & production waste (E&P Waste) fluids located on Hwy 182 in Section 43, Township 4 South, Range 4 East in St. Landry 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 3rd Street, Baton Rouge, LA. Copies of the application will be available for review at the St. Landry Parish Courthouse in Opelousas, LA or the St. Landry Parish Public Library located at 418 N. Main St., Washington, LA, 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., Thursday, February 7, 2019, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
Environmental Division
P.O. Box 94275
Baton Rouge, LA 70804
Re: Docket No. ENV 2019-02
Commercial Facility Well Application
St. Landry Parish

Richard P. Ieyoub
Commissioner

1812#029

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