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Executive Orders

EXECUTIVE ORDER JBE 20-10

Flags at Half-Staff—Reggie Paul Bagala

WHEREAS, Reggie Paul Bagala, a distinguished member of the Louisiana Legislature, died at the age of 54 on Thursday, April 9, 2020;

WHEREAS, he is survived by his wife of 26 years, Marissa, and their son, Tristan;

WHEREAS, he served his home parish of Lafourche as the parish administrator from 2014-2017, as the parish council's auditor from 2017-2019, then as the parish's community services director;

WHEREAS, he was elected to the Louisiana House of Representatives in the fall of 2019, representing Louisiana's 54th District before his life was tragically cut short;

WHEREAS, as a community leader, hard work, perseverance, and faith guided Reggie through his history of public service; and

WHEREAS, Reggie Paul Bagala lived his life with integrity and honor, and his service as a public servant and lawmaker to the State of Louisiana will long be remembered.

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

SECTION 1: As an expression of respect for Reggie Paul Bagala, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol until sunset on Monday, April 13, 2020.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, April 13, 2020.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 10th day of April, 2020.

John Bell Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
2005#053

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services
Division of Child Welfare

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

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B) to amend LAC 67:V, Subpart 5, Foster Care, Chapter 39, Chafee Foster Care Independence Program and Extended Foster Care, Section 3903. This Emergency Rule shall be effective May 21, 2020, and shall remain in effect for a period of 120 days.

The Department considers emergency action necessary to facilitate the expenditure of IV-E funds for extended foster care services to the estimated 220 children who are currently eligible for these foster care services as specified in Act 400 of the 2019 Regular Session of the Louisiana Legislature. Without emergency action, the Department will not be able to draw down IV-E funds for this population of young adults and will not be in compliance with Act 400 of the Regular Session of the Louisiana Legislature. Young adults who are eligible for Extended Foster Care services will not be able to receive such support during their transition to adulthood.

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

A. The DCFS will continue to provide foster care services to young adults age 18 to 21 who are completing secondary education or a program leading to an equivalent credential, enrolled in institution that provides postsecondary or vocational education, participating in a program or activity designed to promote employment or remove barriers to employment, employed at least eighty hours per month, or is incapable of doing any part of the activities in the aforementioned due to a medical condition in accordance with R.S. 46:288.1, et seq. They shall be eligible for foster care services until their twenty-first birthday as long as the youth is willing and continues to meet the above stated eligibility criteria. The youth initiates extended foster care services through signing a voluntary placement agreement. The young adult in foster care shall be eligible for all foster care services in accordance with their voluntary placement agreement and case plan; and, their foster parents, custodian or other placement provider continued services and benefits for the period of time the young adult is eligible and participating in the extended foster care program.

B. The DCFS will notify all foster children and their foster parents/custodians/placement provider in writing of the availability of extended foster care services; eligibility for the services; and, the benefits at the foster child's seventeenth birthday. The written notifications will continue every 90 days unless the foster child and foster parents/custodian/placement provider consent to participate in extended foster care, or the child becomes ineligible for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with Act 400 of the 2019 Regular Session and R.S. 46:288.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare, LR 45:508 (April 2019), effective May 1, 2019, amended LR 46:

Marketa Garner Walters
Secretary

2005#040

DECLARATION OF EMERGENCY

Board of Regents
Office of Student Financial Assistance

Scholarship/Grant Programs—2018 Regular Session of the Louisiana Legislature and TOPS 5.0 Grading Scale:
AP Psychology (LAC 28:IV.703)

The Louisiana Board of Regents is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:950 et seq.)] to amend the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)).

This rulemaking adds AP Psychology as a course that may be graded on a 5.0 scale for high school graduates of 2018 and later.

The Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The Board of Regents has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective April 23, 2020, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG20190E)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards
§703. Establishing Eligibility

A. - A.5.a.ii.(e). …

* * *

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the

tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	AP Psychology
World Geography	AP Human Geography
World History	AP World History

A.5.a.ii.(f)(ii).. - J.4.b.ii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015, LR 41:657, 664 (April 2015), LR 41:2596, 2599 (December 2015), LR 46:

Robyn Rhea Lively
Senior Attorney

2005#022

DECLARATION OF EMERGENCY

Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program
(LAC 28:VI.107 and 315)

The Louisiana Tuition Trust Authority is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This rulemaking adds the applicable interest rates for the START Saving Program for the 2019 calendar year. It also amends the definition of Qualified Higher Education Expenses to align Louisiana START Saving Program Rules with Internal Revenue Code Section 529, as amended by the Setting Every Community Up for Retirement Enhancement (SECURE) Act.

The Emergency Rules are necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. In addition, this rulemaking aligns the START Saving Program with federal law. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that these emergency rules are necessary in order to prevent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective April 22, 2020, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST20189E)

Title 28
EDUCATION
Part VI. Student Financial Assistance — Higher Education Savings
Chapter 3. Education Savings Account
§107. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Person—a human being or a juridical entity.

Qualified Education Loan—any indebtedness incurred by the taxpayer solely to pay qualified higher education expenses—

a. which are incurred on behalf of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred,

b. which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

c. which are attributable to education furnished during a period during which the recipient was an eligible student.

Qualified Higher Education Expenses—

a. tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution; and

b. room and board; and

c. expenses for special needs services in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance; and

d. for the calendar years 2009 and 2010 only, expenses paid or incurred for the purchase of any computer technology or equipment or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature;

e. for calendar year 2015 and thereafter, expenses for the purchase of computer or peripheral equipment, computer software, or Internet access and related services, if such equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature.

f. for calendar year 2019 and thereafter, expenses for fees, books, supplies, and equipment required for the participation of the designated beneficiary in an apprenticeship program which is registered and certified with the United State Secretary of Labor under section 1 of the National Apprenticeship Act.

g. for calendar year 2019 and thereafter, a maximum of $10,000 per individual for the payment of principal and/or interest on a qualified education loan of the designated beneficiary or a sibling of the designated beneficiary.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1491 (August 2009), LR 38:3162 (December 2012), LR 42:1071 (July 2016), LR 44:1877 (October 2018), LR 46:

§315. Miscellaneous Provisions

A. - B.40. …

41. For the year ending December 31, 2019, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.19 percent.

42. For the year ending December 31, 2019, the Savings Enhancement Fund earned an interest rate of 2.27 percent.

C. - S.2. …

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016), LR 43:1731 (September 2017), LR 44:1888 (October 2018), LR 45:1177 (September 2019), LR 46:

Robyn Rhea Lively
Senior Attorney

2004#08

DECLARATION OF EMERGENCY

Office of the Govenor
Board of Examiners of New Orleans and Baton Rouge Steamship Pilots for the Mississippi River

Standards of Conduct
(LAC 46:LXX.6311)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), and under the authority of R.S. 34:1041 et seq. and Title 44, PROFESSIONAL AND OCCUPATIONAL STANDARDS, Part LXX. River Pilots, Subpart 3. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots, et seq. the Board of Examiners for New Orleans-Baton Rouge Steamship Pilots for the Mississippi River declares an emergency to exist and adopts by emergency process the attached regulation for the increased mandatory rest period for New Orleans-Baton Rouge Steamship Pilots.

Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. The board has promulgated standards of conduct, in order to further enhance the safety and wellbeing of the citizens of Louisiana and New Orleans-Baton Rouge Steamship Pilots as well as to prevent any imminent peril to public health, safety and welfare, and to achieve and maintain reliable, safe and efficient pilotage services.

The board has the authority to compel each and every individual pilot to be available for and accept orders for pilotage assignments in declared emergency situations or in other overriding operational conditions. This Emergency Rule amends LAC 46:LXX.6311 to provide for an increased mandatory rest period for New Orleans–Baton Rouge Steamship Pilots during time periods of extreme Mississippi River gauge levels and river currents.

This Emergency Rule becomes effective upon the signature of the President of the Board of Examiners for New Orleans-Baton Rouge Steamship Pilots for the Mississippi River and shall remain in effect for 120 days, unless rescinded, renewed or until permanent rules and regulations become effective.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXX. River Pilots
Subpart 3. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots
Chapter 63. Standards of Conduct
§6311. Mandatory Rest Period

A. For the purpose of this rule, a turn is the time period from dispatch to the termination of the allotted travel time.

B. All pilots shall have a minimum of 12 hours rest period between turns.

C. For the purpose of this rule, the rest period begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

D. Notwithstanding Subsection B, the captain of the station and shift pilots shall be exempt from the minimum 12 hours rest period in between turns. However, in no case shall the captain of the station and shift pilots exceed 12 bridge hours in any 24-hour period.

E. Notwithstanding Subsection B, any pilot completing a turn lasting less than 4 bridge hours or receiving a discharge, shall not be required to comply with the mandatory 12 hours rest period. However, in no case shall any pilot acquire more than 12 hours in a 24-hour period. Pilots requesting 12 hours rest period shall not be called or dispatched in less than 12 hours from the completion of their finishing time.

F. Notwithstanding Subsection B, during a state of declared emergency all pilots shall be exempt from the minimum 8 hours rest period in between turns. However, in no case shall any pilot exceed 12 bridge hours in any 24-hour period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 31:56 (January 2005), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010), LR 38:3167 (December 2012), LR 46:

Captain Robert D. Heitmeier
President

2005#020

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Patient's Compensation Fund Oversight Board

Qualified Health Care Provider Services
(LAC 37:III.121, 123, and 125)

Upon finding that imminent peril to the public health, safety or welfare required adoption of an emergency rule, the Patient's Compensation Fund Oversight Board (Oversight Board), under authority of the Louisiana Medical Malpractice Act, R.S. 40:1231.1 et seq. (MMA), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., adopted this Emergency Rule 6 at its meeting held on April 16, 2020.

On January 31, 2020, the Secretary for the United States Department of Health and Human Services declared a public health emergency (PHE) for the United States (US) to aid the US healthcare community in responding to the worldwide global effect caused by the COVID-19 pandemic. On March 13, 2020, President Donald Trump declared a national emergency regarding the spread of COVID-19. As of the date of this Emergency Rule, a large number of Louisiana residents have tested positive for COVID-19, thereby posing a significant risk of substantial harm to a large number of Louisiana citizens.

In response to the statewide public health emergency and the emergency conditions threatening the lives and health of the citizens of Louisiana, Governor John Bel Edwards issued a number of proclamations, including but not limited to, Proclamation Nos. JBE 2020-25, 29, 33, 37 and 41, which, *inter alia*, declared a state of emergency for Louisiana (State of Emergency), issued a stay-at-home order and closed nonessential businesses.

To address and minimize the threats of mass disruption to normalcy previously enjoyed by Louisianans and the immediate threat to the public health, safety, and welfare of Louisiana citizens, the State of Louisiana has imposed significant measures that will have a negative economic impact and result in financial hardship for the citizens of Louisiana. In response thereto and to protect and safeguard the public health, safety, and welfare of Louisiana citizens, the Department of Insurance originally issued Emergency Rule 40 (EMR 40) on March 26, 2020, entitled “Moratorium on Policy Cancellations/Non-Renewals for Policyholders in Louisiana during the Outbreak of Coronavirus (COVID-19)”. Subsequently, on April 3, 2020, EMR 40 was rescinded by the Department of Insurance and replaced with an “amended” EMR 40 (Amended EMR 40). Amended EMR 40, which became effective on March 12, 2020 and will be published in the April edition of the *Louisiana Register*, suspends certain statutes and regulations regarding cancellations, non-renewals, reinstatements, premium payments, claim filings and related provisions regarding any and all insurance matters affecting insureds, including healthcare providers.

Many qualified healthcare providers (QHCPs) enrolled in the Patient's Compensation Fund (Fund or PCF) are being severely impacted by the COVID-19 pandemic and the disruptions therefrom. It is believed that these disruptions have affected and will continue to affect for some time, the ability of these QHCPs to timely pay their annual renewal PCF surcharges in full and, as such, may seriously affect the provision of health care services by QHCPs to patients in Louisiana. This public health emergency has undoubtedly created a mass disruption to the normalcy previously enjoyed by QHCPs and patients and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens, both patients and QHCPs alike.

Accordingly, Emergency Rule 6 was adopted by the oversight board and shall apply to all QHCPs as set forth in this Emergency Rule.

In the ordinary course of business and pursuant to LAC 37:III.517, a QHCP is allowed a "grace" period of 30 days in which to pay the annual renewal PCF surcharge in full to the insurer, the PCF or to the self-insurance trust, as applicable, to extend PCF coverage for another year. The COVID-19 pandemic and the public health emergency resulting therefrom have produced a disruption in the ability of many QHCPs to timely pay the annual renewal PCF surcharge in full to maintain their enrollment in the Fund. This could result in a QHCP being without PCF coverage or having a gap in PCF coverage. Emergency Rule 6 was adopted to provide emergency relief to QHCPs as set forth therein.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board

Chapter 1. General Provisions

§121. Qualified Health Care Provider Services

A.1. Emergency Rule 6 shall apply to all QHCPs whose renewal date or 30 day grace period for payment of the PCF annual renewal surcharge occurs on or after March 12, 2020 but prior to the expiration of this Emergency Rule.

2 For purposes of this Emergency Rule 6, QHCPs who meet the above criteria shall be referred to herein as *affected QHCPs*. The provisions of this Emergency Rule 6 shall not apply to any health care provider not previously enrolled in the PCF prior to March 12, 2020.

3. The oversight board's rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's rate manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to pay the applicable annual PCF renewal surcharges, shall be suspended for affected QHCPs during the effective periods set forth in this Emergency Rule 6. Except as provided for in paragraph A(5) of this §121, the cancellation of PCF qualification for affected QHCPs for failure to timely pay an annual PCF renewal surcharge is hereby suspended until the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof.

a. PCF surcharges for all affected QHCPs whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after March 12, 2020 but prior to or on the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof (suspension period), shall be due and owing on the date that is 30 days immediately following the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof. Affected QHCPs shall also furnish the required proof of financial responsibility concurrently with the payment of the appropriate surcharge. PCF surcharges for all other QHCPs shall be due, owing and payable consistent with the oversight board's previously promulgated rules.

b. The executive director is hereby granted continuing authority to reasonably extend the suspension period for those Affected QHCPs who certify to the Oversight Board in writing that said Affected QHCP was impacted by the State of Emergency in a manner, including but not limited to, contraction of COVID-19, evacuation, displacement, business interruption, or temporary relocation, sufficient to prevent the timely payment of the renewal surcharge (extended suspension period).

c. The 30-day grace period provided for in LAC 37:III.517 for payment of the annual PCF renewal surcharge by Affected QHCPs who have been granted an extension of the suspension period shall commence on the day immediately following the end of the extended suspension period; the 30-day grace period for all other Affected QHCPs shall commence on the day immediately following the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof.

4. In the event an insurer, agent or trust fund collects a renewal surcharge during the suspension period from an affected QHCP, then the renewal surcharge shall be timely remitted to the PCF consistent with the MMA and the oversight board's applicable rules.

5. A cancellation of PCF qualification for an affected QHCP shall not occur prior to the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof, unless upon the documented written request or written concurrence of the Affected QHCP.

6. Unless otherwise cancelled pursuant to the provisions of Paragraph 5 herein, nothing in this Emergency Rule 6 shall be construed to exempt or excuse an affected QCHP from the obligation to pay the applicable PCF surcharge for renewal or for an extended reporting endorsement otherwise due for actual PCF qualification provided during the suspension period or the extended suspension period.

7. Emergency Rule 6 shall not relieve an affected QHCP from compliance with the MMA and the applicable oversight board's rules upon receiving notice of the filing of a medical review panel request (claim) against the affected QHCP.

8. The provisions of Emergency Rule 6 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum protection for the Affected QHCPs and the citizens of Louisiana.

9. Emergency Rule 6 became effective on March 12, 2020 and shall continue in full force and effect to the earlier of July 9, 2020 or the date the Governor lifts the State of Emergency presently in effect, inclusive of any renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 40 (amended) of the Louisiana Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 46:

§123. Termination; Survival

A. Emergency Rule 6 shall terminate on the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof. However, Paragraphs A.3 and A.6 through A.8 of §121 shall survive the termination of this Emergency Rule 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 40 (amended) of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 46:

§125. Severability Clause

A. If any section or provision of Emergency Rule 6, as originally adopted and/or amended, is held invalid, such invalidity or determination shall not affect other Sections or provisions, or the application of Emergency Rule 6, as originally adopted and/or amended, to the affected QHCPs or circumstances that can be given effect without the invalid Sections or provisions and the application to Affected QHCPs or circumstances shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 40 (amended) of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 46:

Ken Schnauder
Executive Director

2005#009

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Emergency Rule 44—Extension of Renewal Date

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

Emergency Rule 44 is issued to address the mass disruption to the normalcy previously enjoyed by citizens of Louisiana as a result of the effects of COVID-19. Specifically, Proclamation No. JBE 2020-33 and Proclamation No. JBE 2020-41, declaring a stay at home order, inhibit the ability for producers and adjusters to obtain continuing education and process renewals in association with producer and adjuster license applications. Emergency Rule 44 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner; Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon; Proclamation No. JBE 2020-37 issued on March 26, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon. Additionally, Proclamation No. JBE 2020-33 issued on March 22, 2020, declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner and Proclamation No. JBE 2020-41 issued on April 2, 2020, extending the stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue Emergency Rule 44.

Title 37
INSURANCE
Part XI. Regulations
Chapter 44. Emergency Rule 44—Extension of Renewal Date

§4401. Purpose

A. Emergency Rule 44 provides for the extension of renewal dates for licenses of insurance producers and adjusters held by individuals who have been negatively impacted by the related commercial and economic impacts of COVID-19, in accordance with Proclamation No. JBE 2020-33, issued on March 22, 2020, by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner and Proclamation No. JBE 2020-41 issued on April 2, 2020, declaring a stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4403. Applicability and Scope

A. Emergency Rule 44 shall apply to insurance producer and adjuster licensees with an expiration date of April 30, 2020.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4405. Definitions

A. For the purposes of Emergency Rule 44 the following terms are defined as follows:

Adjuster—as defined in R.S. 22:1661(1).

Commissioner—the Commissioner of Insurance for the State of Louisiana.

Insurance Producer or *Producer*—as defined in R.S. 22:1542(6)

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4407. Extension of Time to Renew

A. Every insurance producer and adjuster license with a renewal date of April 30, 2020 is extended until May 12, 2020.

B. Insurance producers and adjusters shall complete all continuing education requirements and submit a renewal application and payment on or before 11:59 p.m. on May 12, 2020.

C. Renewals submitted in compliance with Emergency Rule 44 shall not be subject to a late fee.

D. Subsequent renewals will return to the last date of the birth month of the individual for the renewal period following this extension.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4409. Licenses to Remain Valid

A. During the extended renewal period, the insurance producer's and adjuster's license~~s~~ subject to this emergency rule shall remain valid unless surrendered, suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4411. Effective Date

A. Emergency Rule 44 shall become effective at 12:01 a.m. on April 17, 2020 and shall continue in full force and effect until expiration on the earlier of 11:59 p.m. on May 12, 2020 or 11:59 p.m. on the date the governor of Louisiana lifts the state of emergency presently in effect, inclusive of any renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4413. Severability

A. If any section or provision of Emergency Rule 44 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 44 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 Emergency Rule 44 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#005

DECLARATION OF EMERGENCY

Department of Revenue
Office of Alcohol and Tobacco Control

Vapor Products Public Safety Regulations
(LAC 55:VII.Chapter 32)

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, pursuant to the emergency rulemaking authority granted by R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950, et seq.) and the specific rule making authority granted by R.S. 3:1483, hereby adopts the following Emergency Rule for the protection of public health. The effective date of this Rule is upon signature.

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, finds it necessary to make immediate changes to the Louisiana Administrative Code given the need for regulation of alternative nicotine and vapor products under the provisions of Act No. 424 of the 2019 Louisiana Legislature. The following regulations will give the ATC the ability to properly permit, authorize, and regulate the retail sale and distribution of alternative nicotine and vapor products, which will affect the health of Louisiana citizens and give the commissioner of the Office of Alcohol and Tobacco Control the ability to make critical decisions that protect human health. This Rule creates §3201 through §3215 to address retail sale and distribution of alternative nicotine and vapor products and related matters since this is not addressed otherwise by existing law or regulation.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of Alcohol and Tobacco Control or until permanent rules are promulgated in accordance with law.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 2. Tobacco
Chapter 32. Alternative Nicotine and Vapor Products Public Safety Regulations

§3201. Definitions

A. As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

E-Liquid—a substance that does not include cannabis or CBD as defined under the laws of this state and the laws of the United States and which meet all of the following criteria:

a. may or may not contain nicotine.

b. is intended to be vaporized and inhaled using a vaporized and inhaled using a vapor product.

c. is a legal substance under the laws of this state and the laws of the United States.

Manufacturer—anyone engaged in the manufacture, production, or foreign importation of tobacco products, vapor products, and alternative nicotine who sells to wholesalers.

Retail Dealer—includes every dealer other than a wholesale dealer, or manufacturer who sells or offers for sale, cigars, cigarettes, other tobacco products, alternative nicotine products, irrespective of quantity or the number of sales. If any person is engaged in the business of making sales both at retail and wholesale, *retailer* shall apply only to the retail portion of the business.

Tamper Evident Package—a package having at least one indicator or barrier to entry that, if breached or missing, can reasonably be expected to provide visible evidence to consumer that tampering has occurred.

Wholesale Dealer—a dealer whose principal business is that of a wholesaler, who sells cigarettes, cigars or other tobacco products to retail dealers for purpose of resale, who is a bona fide wholesaler, and 50 percent of whose total tobacco sales are to retail stores other than its own or those of its subsidiaries or parent companies within Louisiana. Wholesaler dealer shall include any person in the state who acquires cigarettes solely for the purpose of resale in vending machines, provided such person services 50 or more cigarette vending machines in Louisiana other than his own, and a Louisiana dealer who was affixing cigarette and tobacco stamps as of January 1, 1974. If any person is engaged in the business of making sales at both wholesale and retail, wholesaler shall apply only to the wholesale portion of the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3203. General Requirements

A. Every person who sells or is about to engage in the business of selling at retail, at wholesale, or by vending machine, or is about to engage in the business of receiving unstamped and/or non-tax paid tobacco products, vapor products, or alternative nicotine products or who is engaged in the business of receiving stamped cigarettes at wholesale or any or all of the articles taxed in accordance with Title 47 of Louisiana Revised Statutes of 1950, shall first apply to and obtain from the office a permit for each place of business and each vending machine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3205. Acts Prohibited

A.1. No retail dealer shall purchase tobacco products or resale except from a wholesaler dealer operating with a valid unsuspended wholesale dealer permit, except as provided for in this Chapter.

2. No vapor retail dealer shall purchase alternative nicotine products or vapor products for resale except from a manufacturer of those products or a wholesale dealer operating with a valid unsuspended Louisiana wholesale dealer permit, except as provided for in this Chapter.

B. No wholesale dealer shall sell tobacco products, alternative nicotine products, or vapor products for resale except to a retail dealer operating with either a valid registration certificate or a valid unsuspended permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3207. Inspection and Examination

A. The commissioner or her agent may inspect any place of business where alterative nicotine or vapor products are stored, offered for retail sale, or offered for wholesale. She or her agent may examine, at all reasonable hours, the books records, and other documents of all retail deal permit holders.

B. No person shall refuse to allow, on demand, the commissioner or her agent to make a full inspection of a place of business where alternative nicotine or vapor products are offered for wholesale and/or sale to the public, nor shall any person refuse to allow, on demand, the commissioner or her agent to examine and audit the book and records of any business where alternative nicotine or vapor products are offered for wholesale and/or sale to the public, nor shall any person in any way hinder or prevent such a inspection or audit.

C. Any refusal by a retail permit dealer to allow the commissioner or her agent to inspect the permitted place of business or to examine and audit the books and records of the permitted business as provided within this section is grounds for the suspension of a permit, in addition to other penalties provided in this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3209. Manufacturer Authorization

A. Manufacturers of vapor products shall not sell vapor products in this state without authorization from the office of alcohol and tobacco control. The request for authorization shall include:

1. the name, telephone number of the applicant;

2. the name, telephone number, and address of the manufacturing facility;

3. the name, telephone number, title, and address of the person responsible for the manufacturing facility;

4. verification that the facility will comply with applicable tobacco products good manufacturing practices pursuant to 21 U.S.C. 387f(e) of the Federal Food, Drug, and Cosmetic Act;

5. verification that the manufacturer will comply with the applicable ingredient listing required by 21 U.S.C. 387d(A)(1) of the Federal Food, Drug, and Cosmetic Act.

B. Authorization forms shall be mailed or delivered to the commissioner in Baton Rouge, Louisiana, unless other additional methods are made available by the commissioner.

C. Authorization forms will be processed at the office of alcohol and tobacco control at no cost to the applicant.

D. Authorization forms will be valid for a period of one year.

E. Manufacturer authorizations shall be considered a privilege and is not transferrable, assignable, or hereditable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3211. Safety Requirements

A. All manufacturers and wholesalers shall comply with the following:

1. any alternative nicotine or vapor product must use a child proof cap that has a child resistant effectiveness set forth in the federal poison prevention packaging standards, 16 CFR 1700.1(b)(1).

2. any alternative nicotine or vapor product must use tamper evident packaging. The tamper evident packaging feature must be designed to and remain intact when handled in a reasonable manner.

B. Any manufacturer or wholesaler who violates the safety requirement provisions of this chapter shall be subject to having their permit suspended or revoked.

AUTHORITY NOTE Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3213. Age Verification

A. For all online sales manufacturers and wholesalers must perform an age verification process through an independent, third party age verification service that compares information from public records to the personal information entered by the purchaser during the ordering process that establishes the person is of legal age or older.

B. Persons accepting purchase orders for delivery sales may request that prospective consumers provide their email addresses.

C. No retailer may sell or deliver alternative nicotine or vapor products of any kind in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the customer submits to a clerk a valid driver's license, selective service card, or other lawful identification that on its face establishes the age of the person as 18 years or older and there is no reason to doubt the authenticity and correctness of the identification prior to approaching the self-checkout counter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3215. Prohibition Sales to Minors

A. No person holding a retail dealer permit and no servant, agent, or employee of the permittee shall sell any alternative nicotine or vapor products to any person under the age of 18 years of age.

B. To ensure that no alternative nicotine or vapor products are sold to a person under the age of 18 years of age, a retail dealer permit holder and their servants, agents, and employees may require all person attempting to purchase alternative nicotine or vapor products at retail to product for inspection either:

1. a valid, current, Louisiana driver's license which contains a photograph of the person presenting the driver's license;

2. a valid, current, driver's license of another state which contains a photograph of the person and birth date of the person submitting the driver's license;

3. a valid, current, special identification card issued by the state of Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting the identification card;

4. a valid, current, passport, visa issued by the federal government or another county or nation, that contain a permanently attached photograph of the person and the date of birth of the person submitting the passport or visa;

5. valid, current, military or federal identification issued by the federal government containing a photograph of the person and date of birth of the person submitting the identification card;

6. a valid, current, special identification card of another state which contains a photograph of the person and birth date of the person submitting the identification card;

7. any digitized identification approved by the commissioner may be accepted by a retail dealer. Retail dealers may choose to accept digitized identification or they may still require a physical identification when checking identification. Retail dealers whom the agency has required to utilized scanners shall still be required to request and scan a physical identification and may not accept digitized identification. Digitized identification may be accepted by establishments provided that all employees have been properly trained prior to acceptance in accordance with the requirements of LAC 55:VII.401.D.

C. Each form of identification listed above must on its face establish the age of the person as 18 years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned above shall be accepted as proof of age if its expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional information which contains the name, date of birth, and picture of the person. A duplicate driver's license shall be considered lawful identification for the purposes of this Subsection, and a person shall not be required to submit additional information containing the name, date of birth, and picture of the person. In addition, an educational institution identification card, check cashing identification card, or employee identification card shall not be considered as lawful identification for the purpose of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

Juana Marine-Lombard
Commissioner

2005#011

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2020 Private Recreational Red Snapper Season

In February 2020, NOAA Fisheries announced the implementation of a program and rules allowing the individual Gulf States, including Louisiana, to have management authority over fishing of red snapper by private recreational anglers in the federal waters of the Exclusive Economic Zone (EEZ) during state seasons set by the Wildlife and Fisheries Commission. Given this authority to establish management measures applicable to private anglers in Gulf Federal waters who are landing red snapper in Louisiana, private recreational fishing for red snapper in the

EEZ will open concurrent with state seasons. State-permitted charter guides are only allowed to fish for red snapper within state waters (less than 9 nautical miles from the Louisiana coast). Federally-permitted charter vessels are not part of this authority and can only harvest red snapper during seasons determined by NOAA Fisheries whether inside or outside state waters and regardless of established seasons in state waters.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons and R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Commission hereby declares:

The 2020 recreational red snapper season, previously scheduled to open on April 4, 2020 in LAC 76:VII.335, shall be open on weekends only (Friday, Saturday, and Sunday, including the Monday of Memorial Day and the Monday of Labor Day), beginning at 12:01 a.m. on Friday, May 22, 2020, until further notice. Size and bag limits shall remain at the currently established limits in LAC 76:VII.335 of 16 inches total length and 2 fish per person per day. This season will be in accordance with the provisions of the authority granted to Louisiana by NOAA Fisheries that allows for take within Federal waters out to 200 nautical miles during state seasons set by the Commission.

The Commission further authorizes the secretary of the department, upon notification of the chairman of the commission, to modify the recreational season for the harvest of red snapper when LA Creel data indicate the allotted quota is reached or projected to be reached or as he deems appropriate.

The Commission encourages recreational and charter anglers to help reduce the effects of barotrauma on released red snapper, and all reef fish, by using methods and devices that descend red snapper and reef fish back to a more survivable depth after being caught and prior to release.

Any closure shall prohibit the possession and/or landing of red snapper in state waters, except for federally permitted charter vessels or commercial Individual Fishing Quota holders operating under federal law during federally established seasons.

The secretary of the Department of Wildlife and Fisheries is authorized to take any necessary steps on behalf of the Commission to effectuate this Emergency Rule.

William Hogan
Chairman

2005#024

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2020 Recreational Gray Triggerfish Season Closure

Louisiana's private recreational gray triggerfish season was previously opened on March 1, 2020. The regional administrator of NOAA Fisheries has informed the secretary that the recreational season for gray triggerfish in the federal waters of the Gulf of Mexico will close at 12:01 a.m. on May 2, 2020. Data indicate that the 2020 recreational annual catch target of 217,100 pounds has been projected to be met and a closure is necessary to prevent overfishing.

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

The season for the recreational harvest of gray triggerfish in Louisiana state waters shall close at 12:01 a.m. on Saturday, May 2, 2020 and shall remain closed until the scheduled opening of the 2021 season on March 1, 2021. Effective with this closure, no person shall recreationally harvest or possess gray triggerfish whether within or without Louisiana waters.

Jack Montoucet
Secretary

2005#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2020 Spring Inshore Shrimp Season Opening

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2020 Spring Inshore Shrimp Season in Louisiana state waters to open as follows:

That portion of state inside waters from the Mississippi/Louisiana state line westward to the western shore of Freshwater Bayou Canal to open at 6:00 a.m., May 18, 2020.

That portion of state inside waters from the western shore of Freshwater Bayou Canal westward to the Louisiana/Texas state line to open at 6:00 a.m., May 27, 2020.

The Commission hereby grants authority to the secretary of the Department of Wildlife and Fisheries to delay or advance these opening dates if biological and technical data indicate the need to do so, and; to close any portion of Louisiana inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. Notice of any opening, delaying or closing of a season by the secretary will

be made by public notice at least 72 hours prior to such action.

The secretary of the Department of Wildlife and Fisheries is authorized to take any necessary steps on behalf of the Commission to effectuate this Emergency Rule.

William Hogan
Chairman

2005#025

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Opening of Shrimp Season in a
Portion of State Outside Waters

The secretary of the Department of Wildlife and Fisheries has been notified that recent biological sampling conducted by the department has indicated that small white shrimp, which have over-wintered in these waters from January through the present time, have reached marketable sizes and the closure is no longer necessary. Significant numbers of smaller size white shrimp still remain in state outside waters west of the Atchafalaya River Ship Channel to the western shore of Freshwater Bayou Canal and these waters will remain closed to shrimping until further notice. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the Department of Wildlife and Fisheries the powers, duties and authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicate that marketable shrimp, in sufficient quantities are available for harvest; and, a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 1, 2019 which authorizes the secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary hereby declares:

The portion of state outside waters between Caillou Boca and the Atchafalaya River Ship Channel at Eugene Island shall reopen to shrimping at 12:00 p.m. (noon) on April 17, 2020. The eastern boundary line originates on the northwest shore of Caillou Boca at 29 degrees 02 minutes 46.00 seconds north latitude, -90 degrees 50 minutes 27.00 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 28 degrees 59 minutes 30.00 seconds north latitude, -90 degrees 51 minutes 57.00 seconds west longitude. The western boundary line originates at the Atchafalaya River Ship Channel at Eugene Island as delineated by the red buoy line at 29 degrees 22 minutes 14.93 seconds north latitude, -91 degrees 22 minutes 58.92 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 29 degrees 18 minutes 33.89 seconds north latitude, -91 degrees 26 minutes 16.05 seconds west longitude.

Jack Montoucet
Secretary

2005#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Shrimp Season Opening in Remaining State Outside Waters

The secretary has been notified that recent biological samples taken by Office of Fisheries biologists indicate that small white shrimp, which have over-wintered in these waters from December through the present time, have reached marketable sizes and the closure is no longer necessary. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicate that marketable shrimp, in sufficient quantities are available for harvest; and, a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 1, 2019 which authorizes the secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary hereby declares:

The portion of state outside waters between the Atchafalaya River Ship Channel at Eugene Island westward to western shore of Freshwater Bayou Canal shall reopen to shrimping at 6:00 a.m. on May 18, 2020. The eastern boundary line originates at the Atchafalaya River Ship Channel at Eugene Island as delineated by the red buoy line at 29 degrees 22 minutes 14.93 seconds north latitude, -91 degrees 22 minutes 58.92 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 29 degrees 18 minutes 33.89 seconds north latitude, -91 degrees 26 minutes 16.05 seconds west longitude. The western boundary line originates on the western shore of Freshwater Bayou Canal at 29 degrees 32 minutes 03.00 seconds north latitude, -92 degrees 18 minutes 33.00 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 29 degrees 29 minutes 02.27 seconds north latitude, -92 degrees 19 minutes 34.60 seconds west longitude.

Jack Montoucet
Secretary

2005#030

DECLARATION OF EMERGENCY

Workforce Commission
Office of Unemployment Insurance Administration

Employer Requirement to Provide Notification of the Availability of Unemployment Insurance Benefits to Each Employee at the Time of Separation (LAC 40:IV.381)

The Louisiana Workforce Commission (LWC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., to promulgate a Rule to address posting of information concerning the availability of unemployment insurance benefits to employees at the time of separation. This Emergency Rule is being adopted to rescind and replace the Emergency Rule promulgated on April 8, 2020, in order to correct language.

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the State of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

This Emergency Rule is necessary to provide employers with guidance about posting information concerning the availability of unemployment compensation at the time of separation. A delay in promulgating this Rule would have an adverse impact on the LWC's eligibility for funding under the Families First Coronavirus Response Act, Public Law (Pub. L.) 116-127, specifically Division D, the Emergency Unemployment Insurance Stabilization and Access Act of 2020. It is imperative that the LWC proceed expediently with this Rule because of the precarious position of the immense number of recently unemployed workers due to COVID-19, which is an imminent peril to public health, safety, and welfare that requires immediate action to provide benefits. Failure to adopt this Rule on an emergency basis may delay the receipt of unemployment benefits for those affected by COVID-19, and will result in the LWC failing to receive federal funding, which could imperil the unemployment insurance trust fund.

This Declaration of Emergency is effective April 23, 2020, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., or until adoption of the final Rule, whichever occurs first.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue this Emergency Rule.

Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security
Chapter 3. Employment Security Law
§381. Employer Requirement to Provide Notification of the Availability of Unemployment Insurance Benefits to Each Individual Employee at the Time of Separation

A. Pursuant to R.S. 23:1621, employers are required to provide notification of the availability of Unemployment Insurance Benefits (UI). This Rule prescribes an additional requirement that employers shall notify each individual employee at the time of separation from employment of the following.

1. Employees may file a UI claim in the first week that employment stops or work hours are reduced.

2. Employees shall be informed that a UI claim may be filed by phone or online stating:

a. to file a UI claim by phone, call: 1-866-783-556;

b. to file a UI claim online, visit: www.louisianaworks.net/hire;

c. if you have questions about the status of your UI claim, you can call the LWC at 866-783-5567 or visit www.louisianaworks.net/hire.

3. Employees shall be given the Louisiana Workforce Commission's toll free phone number and web address for filing and assistance with unemployment insurance claims.

4. Employees shall be informed of the need to provide the Louisiana Workforce Commission with the following information in order for the claim to be processed:

a. full legal name;

b. social security number; and

c. authorization to work (if not a U.S. Citizen or resident).

B. Employers can find a form containing this required information at www.laworks.net/downloads.

C. Employers shall convey this information at the time of separation. This information shall be provided to employees in writing either via flyer, letter, email, or text message.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1591, R.S. 23:1472(19)(a)(iii), R.S. 23:1621, and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Unemployment Insurance Administration, LR 46:

Inquiries concerning the proposed enactment may be sent to Assistant Secretary Robert Wooley, UI Administration, 1001 North 23rd Street, Baton Rouge, LA 70802 or at Rwooley@lwc.la.gov

Ava M. Dejoie
Secretary

2005#010

DECLARATION OF EMERGENCY

Workforce Commission
Office of Workers' Compensation Administration

Patient Protections and Related Health Care Services
Regarding Prescription Refills
(LAC 40:I.Chapter 27 and 29)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

This Emergency Rule is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. This Emergency Rule is issued under the authority of the Assistant Secretary of the Office of Workers' Compensation Administration for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner and La. Revised Statute 23:1203.1. Additionally, this Emergency Rule is being issued following the issuance of Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner, and Proclamation No. JBE 2020-41 issued on April 2, 2020, extending the stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

Accordingly, this Emergency Rule shall apply to any and all other workers' compensation insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as "workers' compensation insurers") and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue this Emergency Rule.

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Medical Guidelines
Chapter 27. Utilization Review Procedures
§2715. Medical Treatment Schedule Authorization and Dispute Resolution

A. - B.3.g. …

C. Minimum Information for Request of Authorization

1. - 3.b. …

4. The 1010 form approval may last longer than 30 days, especially if a treatment facility is closed because of COVID-19.

D. - O. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), repromulgated LR 18:257 (March 1992), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:1030 (April 2012), repromulgated LR 38:1287 (May 2012), amended LR 38:3255 (December 2012), LR 40:1163 (June 2014), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

Chapter 29. Pharmacy Reimbursement Schedule, Billing Instruction and Maintenance Procedures

Editor's Note: Other Sections applying to this Chapter can be found in Chapter 51.

§2901. Applicability

A. This Emergency Rule shall apply to any and all Workers' Compensation insurance related entities licensed by the Department of Insurance, those defined as "carrier" in LAC 40:I.103, or doing business in Louisiana (collectively known as "workers' compensation insurers").

B. The assistant secretary or the secretary reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule.

C. If any section or provision of this Emergency Rule is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

§2902. Effective Date

A. This Emergency Rule shall become effective at 12:01 a.m. on March 19, 2020 and shall continue in full force and effect for the maximum time period allowed under the Administrative Procedure Act or for the period of the Governor's Stay-at-Home Order, whichever shall end first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

§2903. Prescription Drug Coverage

A. Workers' compensation insurers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to 7-day prescriptions.

B. This authorization shall be for at least 30-day and up to 90-day supply, consistent with approval from patients' health care providers and/or pharmacists.

C. Mail order prescriptions should be mailed to an alternate address if requested by the insured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

§2904. Prior Authorizations or Restrictions

A. All workers' compensation insurers shall waive time restrictions on prescription medication refills, which include suspension of electronic "refill too soon" edits to pharmacies, to enable insureds or subscribers to refill prescriptions in advance, if there are authorized refills remaining.

B. All workers' compensation insurers shall authorize payment to pharmacies for at least a 30-day supply of any prescription medication, regardless of the date upon which the prescription had most recently been filled by a pharmacist, at any time when the state is declared to be under a state of emergency in an executive order issued by the governor and;

1. the prescription is not for a Schedule II medicinal drug;

2. the medication is essential to the maintenance of life or to the continuation of therapy in a chronic condition;

3. in the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort; or

4. the dispensing pharmacist notifies the prescriber of emergency dispensing within a reasonable time after such dispensing.

C. Pharmacist may refill most medications, one time, with a 30-day supply, even though the pharmacist cannot reach the patient's physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

Inquiries concerning the proposed enactment may be sent to Assistant Secretary Sheral Kellar, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802.

Ava Dejoie
Secretary

2005#003

Rules

RULE

Department of Children and Family Services
Licensing Section

Federal Background Checks
(LAC 67:V.Chapters 67, 71, and 73)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A) and R.S. 46:1407 (D), the Department of Children and Family Services (DCFS) has amended LAC 67: V, Subpart 8, Maternity Homes, Chapter 67, Residential Licensing, Chapter 71, Residential Homes-Type IV and Chapter 73, Child Placing Agencies. This Rule shall be effective June 1, 2020.

The Rule amends Chapter 67, Maternity Homes, Sections 6703, 6705, 6707, 6708, 6710, and 6712 Chapter 71, Residential Homes—Type IV, Sections 7105, 7107, 7109, 7111, 7112, and 7117 and Chapter 73, Child Placing Agencies, Sections 7307, 7309, 7311, 7313, 7315, and 7323. The Rule also promulgates Chapter 71, Residential Homes—Type IV, Section 7124 Section and Chapter 73, Child Placing Agencies, Section 7314. In accordance with ACT 243 of the 2019 Regular Legislative Session, any owner, operator, current or prospective employee, or volunteer requesting licensure or licensed by the DCFS is prohibited from ownership or employment if that person has been convicted of, pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) as evidenced by a federal background check. Each provider licensed by the DCFS as a maternity home, residential home, or child placing agency, transitional placing program shall submit a request for a federal background check for all current owners, staff, volunteers, and contractors by June 12, 2020. All prospective owners, operators, staff, volunteers, and contractors shall have a satisfactory fingerprint-based federal background check prior to a license being issued by the Department. The implementation of this Rule will ensure that no individual with a conviction of crimes enumerated in R.S. 15:587.1 (C) owns or is employed in a maternity home, residential home or child placing agency, transitional placing program licensed by DCFS. The Rule also clarifies several sections involving the State Central Registry procedures for owners and staff. This Rule is hereby adopted on the day of promulgation and is effective June 1, 2020.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 67. Maternity Home
§6703. Definitions

A. A *maternity home* is defined as "any place or facility in which any institution, society, agency, corporation, person or persons, or any other group regularly receives and provides necessary services for children before, during, and immediately following birth. This definition shall not include any place or facility which receives and provides services for women who receive maternity care in the home of a relative within the sixth degree of kindred, computed according to civil law, or general or special hospitals in which maternity treatment and care is part of the medical services performed and the care of children only brief and incidental.

B. - B.1.iii.(c).v. ...

Age or Developmentally Appropriate Activities or Items—activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

Contractor—any person who renders professional services, therapeutic services, enrichment services, or counseling to residents and/or infants of residents such as educational consulting, athletic, or artistic services within a maternity home, whose services are not integral to either the operation of the maternity home or to the care and supervision of residents and/or infants of residents. 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/she is a staff person of the maternity home.

* * *

Division of Licensing and Certification—Department of Children and Family Services, Licensing Section.

* * *

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

a. For licensing purposes the following are considered owners:

i. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or infants of residents are present;

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

iii. *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 residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present; or

iv. *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 residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present.

* * *

Resident—a pregnant female who has not reached her eighteenth birthday or otherwise been legally emancipated and receives care at the maternity home before childbirth and within 6 weeks after childbirth. The resident may not reside in the home with her parents nor be related to the owner of the facility.

* * *

2. - 2.d.…

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 835 (April 2010), repromulgated LR 36:1275 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:2521 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:968 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:514 (April 2019), effective May 1, 2019, LR 46:666 (May 2020), effective June 1, 2020.

§6705. Application

A. An initial application for licensing as a maternity home 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

1. Prior to the initial license being issued to a maternity home, an initial licensing inspection shall be conducted on-site at the maternity home to ensure compliance with all licensing standards. No resident or infant of a resident shall be provided services by the maternity home 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 maternity home provider 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.

B. - B.1.d. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 835 (April 2010), repromulgated LR 36:1275 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:2521 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:968 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:514 (April 2019), effective May 1, 2019, LR:46:667 (May 2020), effective June 1, 2020.

§6707. Licensing Procedures

A. - C. ...

D. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 46:667 (May 2020), effective June 1, 2020.

§6708. General Provision

A. Conditions for Participation in a Child-Related Business

1. Owners shall have a fingerprint-based criminal background check through the Federal Bureau of Identification (FBI) on file with the maternity home in accordance with R.S. 46:51.2 and 15:587.1.

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 residents and/or infants of residents.

b. No person shall own, operate, or participate in the management or governance of a maternity home until such person has submitted his or her fingerprints through the FBI 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. - d. …

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 through the FBI.

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

4. Effective May 1, 2019, CBCs/attestation forms shall be dated prior to the initial license being issued, but 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 residents and/or infants of residents.

A.5. - C.3.d. ...

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:969 (April 2012), amended LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:515 (April 2019), effective May 1, 2019, LR 46:667 (May 2020), effective June 1, 2020.

§6710. Criminal Background Checks

A. Criminal Background Checks—Current Owners as of June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 1587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators. The request for the FBI check shall be submitted no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the owner/operator has been convicted of a crime listed in R.S.15:587.1(C), the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the maternity home. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the notification has been made indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days of the notification being made verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the owner/operator shall not be present at the agency. However, if the information is not submitted within 30 calendar days, owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days after the thirtieth day verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

4. This check shall be obtained prior to 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 residents and/or infants of residents.

5. No person shall own, operate, or participate in the management or governance of a maternity home until such person has submitted his or her fingerprints through the FBI 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).

6. 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*.

7. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present.

8. 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 residents and/or infants of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

9. Criminal background clearances are not transferable between owners.

B. Criminal Background Checks—Prospective owners effective June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators is required prior to the date the initial license is issued. The satisfactory criminal record check shall be dated prior to the issuance of the license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. Documentation of a satisfactory fingerprint-based FBI check shall be available for review.

2. 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 residents and/or infants of residents.

3. No person shall own, operate, or participate in the management or governance of a maternity home until such person has submitted his or her fingerprints through the FBI 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).

4. 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*.

5. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents 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 residents and/or infants of residents in care of the

provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present.

6. 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 residents and/or infants of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

7. CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

8. Criminal background clearances are not transferable between owners.

C. Criminal Background Checks for Current Staff and Volunteers as of June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all currently employed staff (paid and non-paid staff and volunteers). The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the staff person has been convicted of a crime listed in R.S.15:587.1(C), the individual shall no longer be eligible for employment or able to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the staff has been terminated or individual will no longer be providing services. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

5. CBC shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or infants of residents.

6. Criminal background clearances are not transferable between owners.

D. Criminal Background Checks for Prospective Staff and Volunteers effective June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory criminal background check through the Federal Bureau of Investigation (FBI) is required prior to the individual (paid and non-paid staff and volunteers) being present in the facility or having access to residents and/or infants of residents. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1 shall be hired by or present in any capacity in the facility.

2. Criminal background checks (CBC) through the Federal Bureau of Investigation (FBI) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or infants of residents.

3. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

4. No person who is convicted of or has pled *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall continue employment or to provide services after such conviction or *nolo contendere* plea.

5. Criminal background clearances are not transferable between owners.

E. Criminal Background Checks for Current Contractors as of June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, provider shall submit a request for a criminal background check through the Federal Bureau of Investigation (FBI) for all current contractors. The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the contractor has been convicted of a crime listed in R.S.15:587.1(C), the individual shall no longer be eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the residents and/or infants of residents. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. A person shall not be deemed a contractor if he/she is a staff person of the facility.

5. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

6. Criminal background checks are not transferable between owners.

F. Criminal Background Checks for Prospective Contractors effective June 1, 2020

1. Contractors hired to perform work which involves contact with residents and/or infants of residents, shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or infants of residents.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

3. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or infants of residents.

4. Criminal background checks (CBC) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or infants of residents.

5. A person shall not be deemed a contractor if he/she is a staff person of the facility.

6. Criminal background checks are not transferable between owners.

G. Criminal Background Checks for Louisiana Department of Education (LDE) Staff effective June 1, 2020

1. Effective June 1, 2020, provider shall provide documentation that a fingerprint-based satisfactory criminal background check (CBC) through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 for all Louisiana Department of Education staff or local school district staff that interact with residents and/or infants of residents prior to the individual providing services to residents and/or infants of residents has been conducted. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed facility.

a. For the first school year that a LDE staff person or local school district staff person provides services to a resident, that LDE staff person or local school district staff person shall provide documentation of a fingerprint-based satisfactory criminal record check through the Federal Bureau of Investigation (FBI) as required by R.S 17:15 and R.S. 15:587.1 or shall provide the original, completed, signed, notarized, DCFS-approved affidavit dated June 1, 2020, or after to the provider prior to being present and working with a resident at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May thirty-first of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee noting that the individual continues to meet certain specific requirements. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May thirty-first of the current school year. The letter is acceptable only if all the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee; and

iv. the letter notes the following:

(a). individual is an employee and/or representative of the school district for the (ex. 2020-2021) school year and is not employed or contracted on an emergency basis nor pursuant to written approval of any district judge or district attorney under to La. R.S. 17:15(A). As a prerequisite of employment and/or representative status, he/she underwent a criminal background check as required by La. R.S. 17:15 and La. R.S. 15:587.1.

(b). the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or *nolo contendere* to, any of the criminal offenses set forth in La. R.S. 17:15 and/or La. R.S.15:587.1(C).

(c). the superintendent or designee certifies that he/she will notify the Director of DCFS Licensing in writing if superintendent/designee becomes aware that the individual

is convicted of an offense enumerated in La. R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. 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 or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:970 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:516 (April 2019), effective May 1, 2019, LR 46:668 (May 2020), effective June 1, 2020.

§6712. State Central Registry

A. - A.1. ...

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 residents and/or infants of residents in care or residents and/or infants of residents who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents 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 May 1, 2019, all owners and operators affiliated with a facility 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 maternity home.

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 application being received by the Licensing Section 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 application being received by the licensing section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana but own/operate a maternity home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. 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 maternity home.

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 residents and/or infants of residents in care or residents and/or infants of residents who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents 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. - 4.a. ...

b. The out of state clearance forms shall be dated no earlier than 120 days prior to the application being received by the Licensing Section; however, individuals who continue to reside outside of the state of Louisiana but own/operate a maternity home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

5. - B.1.b. ...

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff(paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) 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 (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or infants of residents. Other states' State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or infants of residents ; however, individuals who continue to reside outside of the state of Louisiana but volunteer with or work for the maternity home or with residents and/or infants of residents in the state of Louisiana, their clearances shall be dated prior to hire and/or providing services to residents and/or infants of residents, but no earlier than 45 days of hire or providing services. 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 maternity home.

c.i. - C.1.c.i. ...

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 residents and/or infants of residents. Other states' State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to residents and/or infants of residents however, individuals who continue to reside outside of the state of Louisiana but contract with or provide services for the maternity home or with residents and/or infants of residents in the state of Louisiana, their clearances shall be dated prior to hire and/or providing services to residents and/or infants of residents, but no earlier than 45 days of hire or providing services. 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 maternity home.

C.1.e. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:516 (April 2019), effective May 1, 2019, LR 46:672 (May 2020), effective June 1, 2020.

Chapter 71. Residential Homes—Type IV

§7105. Definitions

A. As used in this Chapter:

* * *

Contractor—any person who renders professional services, therapeutic services, enrichment services, or counseling to residents and/or children of residents such as educational consulting, athletic, or artistic services within a residential home, whose services are not integral to either the operation of the residential home or to the care and supervision of residents and/or children of residents. 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/she is a staff person of the residential home.

* * *

Independent Contractor—Repealed.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:976 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017), amended by the Department of Children and Family Services, Licensing Section, LR 45:519 (April 2019), effective May 1, 2019, LR 46:673 (May 2020), effective June 1, 2020.

§7107. Licensing Requirements

A. - A.4. ...

5. Owners shall have a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) on file with the residential home as noted in §7124.A or §7124.B, as applicable and 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.

6. CBCs/attestation forms shall be dated prior to the date the initial license is issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

7. 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 residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility 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 through the Federal Bureau of Investigation (FBI). The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

8. A new Federal Bureau of Investigation (FBI) criminal background clearance and Louisiana State Central Registry clearance are required if an individual is terminated, resigns, or no longer provides services for longer than one 24-hour period and is then re-instated.

9. - 14. ...

15. 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.

B. - B.2.o. ...

p. documentation of a fingerprint-based satisfactory criminal record check through the FBI for all staff, volunteers, contractors, and owners of the facility as noted in §7124 , and required by R.S. 46:51.2 and 15:587.1. CBC shall be dated prior to the issue date of the initial license, but no earlier than 45 days before the application has been received by the Licensing Section;

B.2.q. - D.4.f.iii. ...

iv. satisfactory SCR clearance form from Child Welfare dated no earlier than 45 days of the individual being present in the facility/hired; and

v. satisfactory fingerprint-based FBI criminal background check dated no earlier than 45 days of the individual being present in the facility/hired.

D.5. - E.2.e. ...

f. copy of a criminal background clearance or attestation forms as referenced in §7124.A or §7124.B, as applicable for all owners and §7124.C or §7124.D, as applicable for program directors as required by R.S. 46:51.2 and 15.587.1; and

E.2.g. - F.1.b.xv. ...

xvi. documentation of a fingerprint-based satisfactory criminal record check through the FBI for all staff, volunteers, contractors, and owners of the facility, as noted in §7124 and required by R.S. 46:51.2 and 15:587.1;

F.1.b.xvii. - 3.a.xv. ...

xvi. documentation of a fingerprint-based satisfactory criminal record clearance through the FBI for all staff, volunteers, contractors, and owners as noted in §7124 as applicable and required by R.S. 15:587.1 and 46:51.2. CBC shall be dated no earlier than 45 days before the application has been received by the Licensing Section. The prior owner's documentation of a satisfactory criminal background check for staff, volunteers, contractors, and/or owners is not transferrable;

E.3.a.xvii. - L.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401 et seq., and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:249 (February 2017), LR 43:1725 (September 2017), amended by the Department of Children and Family Services, Licensing Section,

LR 45:519 (April 2019), effective May 1, 2019, LR 46:673 (May 2020), effective June 1, 2020.

§7109. Critical Violations/Fines

A. 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:

1. §7107.A.5-8 and 14, §7107.D.4.f.v, §7107.E.2.F, §7111.A.2.c.ii, §7111.A.5.b, §7111.B.2.a.ii, §7117.A.14.j, and/or 7124.A. - G.—criminal background check;

A.2 - E.1.c. ...

d. When the cited critical violation was for a criminal background check not being completed prior to hire as required, but obtained before the individual was on the premises and/or had access to a resident or child of a resident, the fine shall be decreased by $25.

e. When the cited critical violation was for criminal background check not being completed prior to the individual being on the premises and/or having access to a resident or child of a resident, the fine shall be increased by $25.

E.1.f. - H.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258 (February 2017), amended LR 43:1725 (September 2017), LR 44:1991 (November 2018), effective December 1, 2018, amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020.

§7111. Provider Requirements

A. - A.2.c.i. ...

ii. have documentation of a fingerprint-based satisfactory criminal background check through the FBI as noted in §7124.C or §7124.D, as applicable and required in R.S. 15:587.1 and R.S. 46:51.2.

2.c.iii. - 5.a. ...

b. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a fingerprint-based satisfactory criminal background check through the FBI as required by R.S. 15:587.1 and R.S. 46:51.2 and noted in §7124.E or 7124.F as applicable.

5.c. - 9.a.iii. ...

iv. Contractors (therapists, tutors, etc.) shall not be included in ratio while providing said individualized services to a specific resident(s) or child(ren) of resident(s).

A.9.a.v. - B.2.a.i. ...

ii. a criminal background check as noted in Section 7124.C or 7124.D. as applicable:

B.2.a.iii. - J.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:1725 (September 2017), LR 44:1992 (November 2018), effective December 1, 2018, amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020.

§7112. State Central Registry

A. - A.2. ...

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 initial application being received by the Licensing Section 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 initial application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana but own/operate a residential home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. 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 residential home.

A.3.a. - B.1.b. ...

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) 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 (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or children of residents. Other states' State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or children of residents; however, individuals who continue to reside outside of the state of Louisiana and volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to residents and/or children of residents. 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 residential home.

B.1.c.i. - C.1.c.i. ...

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 residents and/or children of residents. Other states' 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; however, individuals who continue to reside outside of the state of Louisiana and provide services for and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to residents and/or children of

residents. 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 residential home.

C.1.e. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020.

§7117. Provider Services

A. - A.14.i. ...

j. The provider shall have documentation of a satisfactory fingerprint-based criminal record check through the FBI as required in §7124.G.

k. The provider shall have documentation of State Central Registry (SCR) clearances as required in §7112.C.

B. - F.19. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:823 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:278 (February 2017), LR 43:1725 (September 2017), LR 46:675 (May 2020), effective June 1, 2020.

§7124. Criminal Background Checks

A. Criminal Background Checks—Current Owners as of June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 1587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators. The request for the FBI check shall be submitted no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the owner/operator has been convicted of a crime listed in R.S.15:587.1(C), the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the residential home. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the notification has been made indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days of the notification being made verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the owner/operator shall not be present at the agency. However, if the information is not submitted within 30 calendar days, owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days after the thirtieth day verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

4. This check shall be obtained prior to 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 residents and/or children of residents.

5. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI 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).

6. 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*.

7. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

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

8. 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 residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

9. Criminal background clearances are not transferable between owners.

B. Criminal Background Checks—Prospective owners effective June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators is required prior to the date the initial license is issued. The satisfactory criminal record check shall be dated prior to the issuance of the license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. Documentation of a satisfactory fingerprint-based FBI check shall be available for review.

2. 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 residents and/or children of residents.

3. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI 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).

4. 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*.

5. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

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

6. 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 residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

7. CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

8. Criminal background clearances are not transferable between owners.

C. Criminal Background Checks for Current Staff and Volunteers as of June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all currently employed staff (paid and non-paid staff and volunteers). The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the staff person has been convicted of a crime listed in R.S.15:587.1(C), the individual shall no longer be eligible for employment or able to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification

has been made indicating that the staff has been terminated or individual will no longer be providing services. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. No person who has been convicted of, or pled guilty or *nolo contend*ere to any offense included in R.S. 15:587.1(C), shall be present in any capacity in the facility.

5. CBC shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

6. Criminal background clearances are not transferable between owners.

D. Criminal Background Checks for Prospective Staff and Volunteers effective June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, documentation of a satisfactory criminal background check through the Federal Bureau of Investigation (FBI) is required prior to the individual (paid and non-paid staff and volunteers) being present in the facility or having access to residents and/or children of residents. 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 or present in any capacity in the facility.

2. Criminal background checks (CBC) through the Federal Bureau of Investigation (FBI) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

3. 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 or present in any capacity in the facility.

4. No person who is convicted of or has pled *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall continue employment or to provide services after such conviction or *nolo contendere* plea.

5. Criminal background clearances are not transferable between owners.

E. Criminal Background Checks for Current Contractors as of June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a criminal background check through the Federal Bureau of Investigation (FBI) for all current contractors. The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the contractor has been convicted of a crime listed in R.S.15:587.1(C), the individual shall no longer be eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the residents and/or children of residents. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. A person shall not be deemed a contractor if he/she is a staff person of the facility.

5. 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 present in any capacity in the facility.

6. Criminal background checks are not transferable between owners.

F. Criminal Background Checks for Prospective Contractors effective June 1, 2020

1. Contractors hired to perform work which involves contact with residents and/or children of residents shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the

individual being present in the facility or having access to the residents and/or children of residents.

2. 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 or present in any capacity in the facility.

3. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or children of residents.

4. Criminal background checks (CBC) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

5. A person shall not be deemed a contractor if he/she is a staff person of the facility.

6. Criminal background checks are not transferable between owners.

G. Criminal Background Checks for Louisiana Department of Education (LDE) Staff effective June 1, 2020

1. Effective June 1, 2020, provider shall provide documentation that a fingerprint-based satisfactory criminal background check (CBC) through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 for all Louisiana Department of Education staff or local school district staff that interact with children/youth prior to the individual providing services to children/youth has been conducted. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed facility.

a. For the first school year that a LDE staff person or local school district staff person provides services to a child or children, that LDE staff person or local school district staff person shall provide documentation of a fingerprint-based satisfactory criminal record check through the Federal Bureau of Investigation (FBI) as required by R.S 17:15 and R.S. 15:587.1(C) or shall provide the original, completed, signed, notarized, DCFS-approved affidavit dated June 1, 2020, or after to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May thirty-first of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee noting that the individual continues to meet certain specific requirements. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May thirty-first of the current school year. The letter is acceptable only if all the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee;

iv. the letter notes the following:

(a). individual is an employee and/or representative of the school district for the ex. (2020-2021) school year and is not employed or contracted on an emergency basis nor pursuant to written approval of any district judge or district attorney under to La. R.S. 17:15(A). As a prerequisite of employment and/or representative status, he/she underwent a criminal background check as required by La. R.S. 17:15 and La. R.S. 15:587.1.

(b). the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or nolo contendre to, any of the criminal offenses set forth in La. R.S. 17:15 and/or La. R.S.15:587.1(C).

(c). the superintendent or designee certifies that he/she will notify the Director of DCFS Licensing in writing if superintendent/designee becomes aware that the individual is convicted of an offense enumerated in La. R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. 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 or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15.5871.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 46:675 (May 2020), effective June 1, 2020.

Chapter 73. Child Placing Agencies—General Provisions

§7307. Initial Application

A. - A.2.j. ...

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services to youth in DCFS custody,

2.l. - 5. ...

6. Prior to a license being issued, documentation shall be submitted to the Licensing Section of a fingerprint-based criminal record check as noted in §7309.A, §7309.C, §7309.D, and/or §7314.A-F as applicable for all staff including owners, operators, volunteers, and contractors of the child-placing agency, as required by R.S. 46:51.2 and 15:587.1. CBCs shall be dated prior to the issue date of the initial license, but no earlier than 45 days prior to the application being received by the licensing section.

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, volunteers, and contractors and shall be dated no earlier than 45 days prior to the application being received by the Licensing Section

8. Prior to a license being issued, documentation shall be submitted to the Licensing Section of completed out of State Central Registry clearances noting no justified (valid) finding of abuse and/or neglect for all staff including owners, operators, volunteers, and contractors that lived out of state within the previous five years. These clearances shall be dated prior to the issuance of the initial license, but no earlier than 120 days prior to the initial application being received by the Licensing Section. If the owner resided out of state since receiving the clearance, an updated SCR clearance is required.

B. - B.3. ...

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 45:356 (March 2019), effective April 1, 2019, LR 46:678 (May 2020), effective June 1, 2020.

§7309. Background Checks

A. Criminal Background Checks—Owners, Foster Care, and Adoption

1. - 3. ...

4. Effective June 1, 2020, CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

5. Owners with the subprogram of transitional placing (TP) in addition to foster care and/or adoption shall request fingerprint-based criminal background checks through the Federal Bureau of Investigation (FBI)as noted in §7309.C and/or §7309.D, as applicable. LSP checks are only acceptable for owners with the subprogram of foster care and/or adoption.

B. - B.2. ...

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 application being received by the Licensing Section 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 application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana but own/operate a child placing agency in Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. 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.

3.a. - 7.b. ...

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 of the notification, 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. - 10. ...

C. Criminal Background Checks—Current Owners—Transitional Placing as of June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators operating a transitional placing program. The request for the FBI check shall be submitted no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the owner/operator has been convicted of a crime listed in R.S.15:587.1(C), the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the child placing agency. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the notification has been made indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days of the notification being made verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the owner/operator shall not be present at the agency. However, if the information is not submitted within 30 calendar days, owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has resigned or been relieved of his position with the effective date of the

resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days after the thirtieth day verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

4. Criminal background clearances are not transferable between owners.

5. The FBI check shall be obtained prior to the addition of a board member who meets the definition of an owner.

6. 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 through the FBI 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).

7. 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*.

8. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

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.

9. 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 through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

D. Criminal Background Checks – Prospective Owners as of June 1, 2020-Transitional Placing

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators of transitional placing programs is required prior to the date the initial license is issued. The satisfactory criminal record check shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. Documentation of a satisfactory fingerprint-based FBI check shall be available for review.

a. This check shall be obtained prior to the license being issued, board member who meets the definition of an owner, an individual being present on the agency premises when children/youth are present, 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 through the FBI 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. 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*.

2. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance from the FBI:

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 through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. Criminal background clearances are not transferable between owners.

E. 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 45:357 (March 2019), effective April 1, 2019, LR 46:679 (May 2020), effective June 1, 2020.

§7311. Licensing Requirements—Foster Care, Adoption, Transitional Placing

A. - B.5.d.iii. ...

iv. inspection of each transitional placing location by the Licensing Section noting compliance with regulations regarding the service which will be provided;

v. copy of property insurance or rental insurance coverage for each transitional placing location;

vi. copy of a current FBI criminal background clearance or current attestation form as noted in §7309.C and/or 7309.D, as applicable for all owners as required by R.S. 46:51.2 and 15.587.1;

vii. copy of a criminal background clearance through the FBI as noted in §7314.C-F, as applicable for the program director, staff, volunteers, and contractors and required by R.S. 46:51.2 and 15.587.1; and

viii. copy of current State Central Registry clearances for new staff, volunteers, and contractors hired and/or providing services for the transitional placing program.

e. - g.iii. ...

iv. CBC clearance dated no earlier than 45 days prior to hire;

v. Louisiana State Central Registry clearance dated no earlier than 45 days prior to 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 no earlier than 120 days prior to hire; however, individuals who continue to reside outside of the state of Louisiana and work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth.

h. Change to add an individual to the existing ownership structure is effective when the following are received and approved by the Licensing Section:

i. completed change of information form;

ii. name of the individual(s) being added;

iii. effective date of addition;

iv. satisfactory SCR clearance form from Child Welfare dated no earlier than 45 days of the individual being added to the existing ownership structure, being present on the premises, and/or having access to children/youth; and

v. satisfactory fingerprint-based criminal background check completed as noted in §7309.A., §7309.C. and/or §7309.D., as applicable and required by R.S. 46:51.2 and 15.587.1 dated no earlier than 45 days of the individual being added to the existing ownership structure, being present on the premises, and/or having access to children/youth.

B.6. - C.2.f. ...

g. copy of criminal background clearances or current attestation forms as noted in §7309.A, 7309.C, 7309.D, 7314.A, 7314.C, and/or 7314.D, as applicable for all owners and program directors and required by R.S. 46:51.2 and 15.587.1;

C.2.h. - D.2.p. ...

q. documentation of new fingerprint-based satisfactory criminal record checks for owners of the agency, as noted in section §7309.A., §7309.C., and/or §7309.D., as applicable and required by R.S. 46:51.2 and 15:587.1, dated prior to the date the license is issued, but no earlier than 45 days prior to the CHOL application being received by the Licensing Section;

r. documentation of new Louisiana State Central Registry clearance forms for owners dated no earlier than 45 days prior to the CHOL application being received by the Licensing Section 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 CHOL application being received by the Licensing Section as noted in §7309.B ; however, individuals who continue to reside outside of the state of Louisiana but own/operate a child placing agency in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial CHOL license, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

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(C) and Public Law 105-89. These checks shall be dated no earlier than 45 days prior to the CHOL application being received by the Licensing Section 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 CHOL application being received by the Licensing Section as noted in §7315.C;

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 CHOL application being received by the Licensing Section as noted in §7315.C; however, for household members over the age of 18 years who continue to reside outside of the state of Louisiana, but their official domicile is a certified foster/adoptive home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial CHOL application being received by the Licensing Section;

w. documentation of new fingerprint-based satisfactory criminal record checks for all staff (paid, non-paid, and volunteers) and contractors of the agency, as noted in §7314.A.-F. as applicable and 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 CHOL application being received by the Licensing Section as noted in §7313.I.9. and/or §7313.M.1., as applicable;

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 CHOL application being received by the Licensing Section;

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 application being received by the Licensing Section as noted in §7313.I.9. and/or §7313.M.1., as applicable; however, individuals who continue to reside outside of the state of Louisiana, but volunteer with, provide services for, and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth.

D.2.z. - E.2.o. ...

p. documentation of new fingerprint-based satisfactory criminal record checks for owners or current attestation forms as noted in §7309.A., 7309.C., and/or 7309.D., as applicable and 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 CHOW application being received by the Licensing Section;

q. documentation of new Louisiana State Central Registry clearance forms for owners or attestation forms dated no earlier than 45 days prior to the CHOW application being received by the Licensing Section 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 CHOW application being received by the licensing section as noted in §7309.B ;however, individuals who continue to reside outside of the state of Louisiana but own/operate a child placing agency in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial CHOW application being received by the Licensing Section.

s. documentation of new fingerprint-based satisfactory criminal record checks for all staff (paid, non-paid, and volunteers) and contractors of the agency, as noted in §7314.A. - F., as applicable and required by R.S. 46:51.2 and 15:587.1, dated no earlier than 45 days prior to the CHOW application being received by the Licensing Section;

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 CHOW application being received by the Licensing Section;

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 CHOW application being received by the Licensing Section as noted in §7313.I.10. and/or §7313.M.2., as applicable, ; however, individuals who continue to reside outside of the state of Louisiana but volunteer with, provide services for, and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth.

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 CHOW application being received by the Licensing Section;

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 CHOW application being received by the Licensing Section;

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 application being received by the Licensing Section as noted in §7315.C ; however; for household members over the age of 18 years who continue to reside outside of the state of Louisiana, but their official domicile is a certified foster/adoptive home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial CHOW application being received by the Licensing Section.

E.2.y. - I.3.h. ...

i. copy of criminal background clearances or current attestation forms as referenced in §7309.A., §7309.C., §7309.D., §7314.A., §7314,C., and/or §7314.D., as applicable for all owners and program directors as required by R.S. 46:51.2 and 15.587.1;

I.3.j. - M.1. ...

a. §7309.A, §7309.C.1-9, §7309.D.1-4, §7311.B.5.d.vi-vii., §7311.B.5.g.iv., §7311.B.5.h.v., §7311.C.2.g, §7313.I.9, §7313.L.5, §7313.M.1, §7314.A-G, and/or 7315.B - criminal background check;

1.b. - 7.c. ...

d. .When the cited critical violation was for a criminal background check not being completed prior to hire as required, but obtained before the individual was on the

premises and/or had access to a child/youth, the fine shall be decreased by $25.

e. When the cited critical violation was for criminal background check not being completed prior to the individual being on the premises and/or having access to a child/youth, the fine shall be increased by $25.

M.1.f. - N.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:1725 (September 2017), LR 44:1992 (November 2018), effective December 1, 2018, amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:681 (May 2020), effective June 1, 2020.

§7313. Administration and Operation

A. - I.8. ...

9. Prior to employment, staff record shall contain a satisfactory fingerprint-based criminal background check as noted in §7314.A., §7314.C., and/or §7314.D., as applicable and required by R.S.15:587.1 and 46:51.2.

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.

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 as noted in §7309.C. –D., §7314.A. - G., and/or §7315.B., as applicable 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. - f. ...

g. Repealed.

10. - 10.b. ...

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; however, individuals who continue to reside outside of the state of Louisiana, but volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/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.

10.c.i. - 10.h.…

11. A new fingerprint-based criminal background clearance and Louisiana State Central Registry clearance as referenced in §7313.I..9, §7313.I.10., §7313.L., §7313.M., and/or §7314.A.-F., as applicable are required if an individual is terminated, resigns, or no longer provides services for longer than one 24 hour period and is then re-instated.

J. - L.4. ...

5. Prior to providing volunteer services, volunteer record shall contain a satisfactory fingerprint-based criminal background 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 criminal background check as noted in §7314.B., §7314.E., and/or §7314.F., as applicable. 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 as noted in §7314.B., §7314.E., and/or §7314.F., as applicable 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. - d. ...

e. Repealed.

2. - 2.c.i. ...

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 states' 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; however, individuals who continue to reside outside of the state of Louisiana, but contract with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/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.

M.2.e. - U.5. ...

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 45:368 (March 2019), effective April 1, 2019, LR 46:683 (May 2020), effective June 1, 2020.

§7314. Criminal Background Checks

A. Criminal Background Checks for Staff and Volunteers—Foster Care and Adoption

1. Prior to employment, staff (paid and non-paid) 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 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.

h. A fingerprint-based criminal background check through the FBI as required in §7314.C. and §7314.D. is acceptable in lieu of a fingerprint-based check from the Louisiana State Police for staff (paid and non-paid) in foster care and adoption programs.

B. Criminal Background Checks for Contractors—Foster Care and Adoption

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. 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.

d. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

e. A fingerprint-based criminal background check through the FBI is acceptable in lieu of a fingerprint-based check from the Louisiana State Police for contractors in foster care and adoption programs.

C. Criminal Background Checks for Current Staff and Volunteers as of June 1, 2020—Transitional Placing

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all currently employed staff (paid and non-paid staff and volunteers). The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the staff person has been convicted of a crime listed in 15:587.1(C), the individual shall no longer be eligible for employment or able to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the staff has been terminated or individual will no longer be providing services. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. Criminal background clearances are not transferable between owners.

D. Criminal Background Checks for Prospective Staff and Volunteers effective June 1, 2020—Transitional Placing

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, documentation of a

satisfactory criminal background check through the Federal Bureau of Investigation (FBI) is required prior to the individual (paid and non-paid staff and volunteers) being present in the facility or having access children/youth. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1 shall be hired by or present in any capacity in the facility.

2. Criminal background checks (CBC) through the Federal Bureau of Investigation (FBI) shall be dated no earlier than 45 days of the individual being present in the facility or having access to children/youth.

3. Criminal background clearances are not transferable between owners.

E. Criminal Background Checks for Current Contractors as of June 1, 2020—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 FBI. 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.

2. Contractors hired to perform work which does not involve any contact with children/youth, shall not be required to have a criminal background check if accompanied at all times by a staff person when children/youth are present in the agency.

3. A person shall not be deemed a contractor if he/she is a staff person of the facility.

4. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a criminal background check through the Federal Bureau of Investigation (FBI) for all current contractors. The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

5. Upon notification that the contractor has been convicted of a crime listed in 15:587.1(C), the individual shall no longer be eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the children or children of residents. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

6. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

F. Criminal Background Checks for Prospective Contractors effective June 1, 2020—Transitional Placing

1. Contractors hired to perform work which does not involve any contact with residents or children of residents, shall not be required to have a criminal background check if accompanied at all times by a staff person when residents or children of residents are present in the facility.

2. A person shall not be deemed a contractor if he/she is a staff person of the facility.

3. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents or children of residents.

4. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in 15:587.1(C), shall be hired by or present in any capacity in the facility.

G. Criminal Background Checks for Louisiana Department of Education staff—Foster Care, Adoption, and Transitional Placing effective June 1, 2020

1. Effective June 1, 2020, provider shall provide documentation that a fingerprint-based satisfactory criminal background check (CBC) through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 for all Louisiana Department of Education staff or local school district staff that interact with children/youth prior to the individual providing services to children/youth has been conducted. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in 15:587.1(C), shall be present in any capacity in any licensed facility.

a. For the first school year that a LDE staff person or local school district staff person provides services to a child or children, that LDE staff person or local school district staff person shall provide documentation of a fingerprint-based satisfactory criminal record clearance through the Federal Bureau of Investigation (FBI) as required by R.S.17:15 and R.S. 15:587.1 or shall provide the original, completed, signed, notarized, DCFS-approved affidavit dated June 1, 2020, or after to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May thirty-first of the current school year. For all subsequent school years following the first year, the LDE

staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee noting that the individual continues to meet certain specific requirements. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May thirty-first of the current school year. The letter is acceptable only if all the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee

iv. the letter notes the following:

(a). individual is an employee and/or representative of the school district for the (ex. 2020-2021) school year and is not employed or contracted on an emergency basis nor pursuant to written approval of any district judge or district attorney under to R.S. 17:15(A). As a prerequisite of employment and/or representative status, he/she underwent a criminal background check as required by R.S. 17:15 and R.S. 15:587.1.

(b). the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or nolo contendre to, any of the criminal offenses set forth in R.S. 17:15 and/or R.S.15:587.1(C).

(c). the superintendent or designee certifies that he/she will notify the director of DCFS Licensing in writing if superintendent/designee becomes aware that the individual is convicted of an offense enumerated in R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. 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 or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

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 46:683 (May 2020), effective June 1, 2020.

§7315. Foster and Adoptive Certification

A. - A.7. ...

8. Foster/adoptive parents and adults of the household interviewed in person shall sign and date summary or home study 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. If the child is home schooled by someone other than the prospective foster/adoptive parents, then an interview or reference letter is required from that individual regarding their opinion of the prospective foster/adoptive parents' suitability to provide care for children in foster care or available for adoption. If provider is unable to obtain reference information due to school policy, documentation of attempts to secure information is required.

A.10. - C.5. ...

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. However, for household members over the age of 18 years who continue to reside outside of the state of Louisiana but their official domicile is a certified foster/adoptive home in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to certifying the foster/adoptive parents.

C.7. - P.2.e. ...

f. in person, by video, or written account regarding their personal experiences from a certified foster/adoptive parent that has fostered or adopted a child;

P.2.g. - Q.1. ...

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 within close proximity of the home when a foster/adoptive parent is not present.

R. - V.1. ...

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 45:377 (March 2019), effective April 1, 2019, LR 46:686 (May 2020), effective June 1, 2020.

§7323. Transitional Placing Program

A. - A.5.xxiv. ...

6. Training referenced in §7323.A.5.a. shall commence within seven calendar days from the date of placement. Training shall be continuous and 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. Documentation of training shall include signature of staff, youth, training topics addressed, and date training occurred.

7. Documentation of training shall include signature of staff, youth, training topics addressed, and date training occurred.

8. A written description of training provided to youth transitioning from the program shall be included in policy. Topics shall include, but are 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.

9. Training shall be completed prior to the youth transitioning from the program. Documentation shall include signature of staff and youth, training topics, and date.

B. - C.1. ...

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 annual approval is required by the OSFM allowing a common area to be used as a bedroom.

C.3. - L.6.j. ...

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 45:392 (March 2019), effective April 1, 2019, LR 46:686 (May 2020), effective June 1, 2020.

Marketa Garner-Walters
Secretary

2005#018

RULE

Department of Children and Family Services
Licensing Section

State Central Registry—Child Residential Care, Class B
(LAC 67:V.Chapter 69)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A) and R.S. 46:1407 (D), the Department of Children and Family Services (DCFS) has amended LAC 67: V, Subpart 8, Residential Licensing, Chapter 69, Residential Homes, Class B. This Rule shall be effective June 1, 2020.

The Rule amends Chapter 69, Residential Homes, Class B, Sections 6955, 6957, 6959, 6961, and 6962 and also promulgates Chapter 69, Residential Homes, Class B, Section 6966. In accordance with ACT 243 of the 2019 Regular Legislative Session, any owner, operator, current or prospective employee, or volunteer requesting licensure or licensed by the DCFS is prohibited from ownership or employment if that person has been convicted of, pled guilty or nolo contendere to any crime listed in R.S. 15:587.1 as evidenced by a federal background check. Each provider licensed by the DCFS as a residential home shall submit a request for a federal background check for all current owners, staff, volunteers, and contractors by June 12, 2020. All prospective owners, operators, staff, volunteers, and contractors shall have a satisfactory fingerprint-based federal background check prior to a license being issued by the Department. The implementation of this Rule will ensure that no individual with a conviction of crimes enumerated in R.S. 15:587.1 (C) owns or is employed in a residential home licensed by DCFS. The Rule also clarifies several sections involving the State Central Registry procedures for owners and staff. This Rule is hereby adopted on the day of promulgation and is effective June 1, 2020.

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

Chapter 69. Child Residential Care, Class B

§6955. Procedures

NOTE: This Section has been moved from LAC 67:I.1955.

A. - A.2.e.vii. ...

viii. any owner/owners of a residential facility shall provide documentation of a satisfactory criminal record check, as required through the FBI as noted in section 6966.A and/or 6966.B, as applicable and required by R.S. 46:51.2 and 15:587.1.

A.3. - C.2.e. …

f. copy of a satisfactory fingerprint-based criminal record check through the FBI as noted in Section 6966.A and/or 6966.B, as applicable and required by R.S. 46:51.2 and 15:587.1 for any owner/owners.

C.3. - G.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq., R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010), repromulgated LR 36:1277 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2522 (November 2010), repromulgated LR 36:2838 (December 2010), amended by the Department of Children and family Services, Division of Programs, Licensing Section, LR 38:971 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:508 (April 2019), effective May 1, 2019, LR 46:687 (May 2020), effective June 1, 2020.

§6957. Definitions

NOTE: This Section has been moved from LAC 67:I.1957.

* * *

Contractor—any person who renders professional services, therapeutic services, enrichment services, or counseling to residents such as educational consulting, athletic, or artistic services within a residential home, whose services are not integral to either the operation of the residential home or to the care and supervision of residents. 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/she is a staff person of the residential home.

* * *

Resident—an individual who receives care at a residential home and whose parents do not live in the same facility nor is the individual related to the owner of the facility.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2742 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1619 (August 2009), amended by the Department of Children and Family Services, Division of Program, Licensing Sections, LR 38:972 (April 2012), amended by the Department of Children and Family Services, Licensing Sections, LR 45:509 (April 2019), effective May 1, 2019, LR 46:687 (May 2020), effective June 1, 2020.

§6959. Administration and Organization

NOTE: This Section has been moved from LAC 67:I.1959.

A. - B.2. ...

3. Owners shall have a fingerprint-based criminal background check through the FBI on file with the residential home as noted in Section 6966.A and/or Section 6966.B, as applicable in accordance with R.S. 46:51.2 and 15:587.1.

4. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance conducted through the FBI:

a. - d. ...

5. 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 facility 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 through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

6. CBCs/attestation forms shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

7. - 10. ...

11. A new fingerprint-based satisfactory criminal background check through the FBI and Louisiana State Central Registry clearances are required if an individual is terminated, resigns, or no longer provides services for longer than one 24-hour period and is then re-instated.

C. - O.1.c. ...

d. documentation of a satisfactory fingerprint-based criminal record check for each staff person through the FBI as noted in Section 6966.C and/or Section 6966.D, as applicable and required by R.S. 46:51.2.;

O.1.e. - R.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1620 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:973 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45: 509 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020.

§6961. Human Resources

NOTE: This Section has been moved from LAC 67:I.1961.

A. - E.4. ...

5. have a criminal background check for each volunteer through the FBI as required in R.S. 15:587.1 and R.S. 46:51.2 and as outlined in Section 6966.C and/or 6966.D., as applicable; and

E.6. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1570 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2745 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1622 (August 2009), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:975 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:510 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020.

§6962. State Central Registry

A. - A.2. ...

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 application being received by the Licensing Section 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 application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana, but own/operate a residential home in Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. 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 residential home.

A.3.a. - B.1.b. ...

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) 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 (paid, non-paid, and volunteers) 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 (paid, non-paid, and volunteers) being present on the premises or having access to children/youth; however, individuals who

continue to reside outside of the state of Louisiana, but volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/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 residential home.

B.1.c.i. - C.1.c.i. ...

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; however, individuals who continue to reside outside of the state of Louisiana, but contract with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/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 residential home.

C.1.e. - D.1. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:510 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020.

§6966. Criminal Background Checks

A. Criminal Background Checks—Current Owners as of June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 1587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators. The request for the FBI check shall be submitted no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the owner/operator has been convicted of a crime listed in R.S.15:587.1, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the residential home. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the notification has been made indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days of the notification being made verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the owner/operator shall not be present at the agency. However, if the information is not submitted within 30 calendar days, owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days after the thirtieth day verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

4. This check shall be obtained prior to 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 residents and/or children of residents.

5. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI 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).

6. 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*.

7. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance conducted through the FBI:

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

present at any time on the facility premises when residents and/or children of residents 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 residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present.

8. 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 residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

9. Criminal background clearances are not transferable between owners.

B. Criminal Background Checks—Prospective Owners effective June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators is required prior to the date the initial license is issued. The satisfactory criminal record check shall be dated prior to the issuance of the license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. Documentation of a satisfactory fingerprint-based FBI check shall be available for review.

2. 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 residents and/or children of residents.

3. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI 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).

4. 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*.

5. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

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

6. 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 residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

7. CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

8. Criminal background clearances are not transferable between owners.

C. Criminal Background Checks for Current Staff and Volunteers as of June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all currently employed staff (paid and non-paid staff and volunteers). The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the staff person has been convicted of a crime listed in R.S.15:587.1, the individual shall no longer be eligible for employment or able to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made

indicating that the staff has been terminated or individual will no longer be providing services. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

5. CBC shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

6. Criminal background clearances are not transferable between owners.

D. Criminal Background Checks for Prospective Staff and Volunteers effective June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory criminal background check through the Federal Bureau of Investigation (FBI) is required prior to the individual (paid and non-paid staff and volunteers) being present in the facility or having access to residents and/or children of residents. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1 shall be hired by or present in any capacity in the facility.

2. Criminal background checks (CBC) through the Federal Bureau of Investigation (FBI) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

3. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

4. No person who is convicted of or has pled *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall continue employment or to provide services after such conviction or *nolo contendere* plea.

5. Criminal background clearances are not transferable between owners.

E. Criminal Background Checks for Current Contractors as of June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 1587.1, provider shall submit a request for a criminal background check through the Federal Bureau of Investigation (FBI) for all current contractors. The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the contractor has been convicted of a crime listed in R.S.15.587.1, the individual shall no longer be eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the residents and/or children of residents. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. A person shall not be deemed a contractor if he/she is a staff person of the facility.

5. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

6. Criminal background checks are not transferable between owners.

F. Criminal Background Checks for Prospective Contractors effective June 1, 2020

1. Contractors hired to perform work which involves contact with residents and/or children of residents, shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the

individual being present in the facility or having access to the residents and/or children of residents.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

3. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or children of residents.

4. Criminal background checks (CBC) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

5. A person shall not be deemed a contractor if he/she is a staff person of the facility.

6. Criminal background checks are not transferable between owners.

G. Criminal Background Checks for Louisiana Department of Education (LDE) Staff effective June 1, 2020

1. Effective June 1, 2020, provider shall provide documentation that a fingerprint-based satisfactory criminal background check (CBC) through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 for all Louisiana Department of Education staff or local school district staff that interact with children/youth prior to the individual providing services to children/youth has been conducted. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed facility.

a. For the first school year that a LDE staff person or local school district staff person provides services to a child or children, that LDE staff person or local school district staff person shall provide documentation of a fingerprint-based satisfactory criminal record clearance through the Federal Bureau of Investigation (FBI) as required by R.S.15:587.1 and R.S. 17:15 or shall provide the original, completed, signed, notarized, DCFS-approved affidavit dated June 1, 2020 or after to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May 31 of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee noting that the individual continues to meet certain specific requirements. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May 31 of the current school year. The letter is acceptable only if all the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee;

iv. the letter notes the following:

(a). individual is an employee and/or representative of the school district for the _____ ex. (2020-2021) school year and is not employed or contracted on an emergency basis nor pursuant to written approval of any district judge or district attorney under to R.S. 17:15(A). As a prerequisite of employment and/or representative status, he/she underwent a criminal background check as required by R.S. 17:15 and R.S. 15:587.1.

(b). the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or *nolo contendere* to, any of the criminal offenses set forth in R.S. 17:15 and/or R.S.15:587.1(C).

(c). the superintendent or designee certifies that he/she will notify the Director of DCFS Licensing in writing if superintendent/designee becomes aware that the individual is convicted of an offense enumerated in R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 46:689 (May 2020), effective June 1, 2020.

Marketa Garner Walters
Secretary

2005#019

RULE

Department of Culture, Recreation, and Tourism
Office of the State Museum

Public Access; Accessions, Deaccessions and Loan Policy
(LAC 25:III.Chapter 3)

In accordance with the Louisiana Administrative Procedure Act (APA), R.S. 49:950, et seq., the Louisiana Department of Culture, Recreation and Tourism, Office of the State Museum has repealed LAC Title 25, Part III, Chapter 3, Accessions, Deaccessions and Loan Policy.

Under the APA, *rulemaking* means the process employed by an agency for the formulation of a rule. A "rule" means an agency statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the agency.

LAC Title 25, Part III, Chapter 3 provides internal policy and therefore, does not meet the definition of a rule under

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

Title 25
CULTURAL RESOURCES
Part III. Office of State Museums
Chapter 3. Accessions, Deaccessions and Loan Policy
§301. Accessions Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 11:684 (July 1985), repealed LR 17:874 (September 1991), repealed LR 46:693 (May 2020).

§303. Deaccession of Museum Collection Items

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:345 and R.S. 9:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 11:684 (July 1985), repealed LR 12:89 (February 1986), LR 17:875 (September 1991), repealed LR 46: 693 (May 2020).

§305. Loan Policy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:201.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 11:518 (May 1985), repealed LR 17:875 (September 1991), repealed LR 46:693 (May 2020).

Nancy Watkins
Undersecretary

2005#023

RULE

Office of the Governor
Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.4703)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council has promulgated rules and regulations relative to the training of peace officers. This Rule is hereby adopted in the day of promulgation.

Title 22
CORRECTIONS, CRIMINLA JUSTICE AND LAW ENFORCEMENT
Part III. Commission on Law Enforcement and Administration of Criminal Justice
Subpart 4. Peace Officers
Chapter 47. Standards and Training
§4703. Basic Certification

A. - A.1.c. …

d. The council shall conduct a statewide job task analysis (JTA) at least once every five years to ensure that mandated standards remain valid and reflect current law enforcement practices. Results of the analysis shall be used to update the basic curriculum as needed.

A.2. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 28:475 (March 2002), LR 31:2008 (August 2005), LR 35:1235 (July 2009), LR 36:992 (May 2010), LR 37:1606 (June 2011), LR 42:274 (February 2016), LR 44:1007 (June 2018), LR 46:693 (May 2020).

Mr. Jim Craft
Executive Director

2005#043

RULE

Department of Health
Board of Pharmacy

Pharmacy Records
(LAC 46:LIII.Chapters 1124)

Editor's Note: This Rule is being repromulgated to correct citation errors. The original Rule can be viewed in its entirety on pages 579-586 of the April 20, 2020 *Louisiana Register*.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended portions of four chapters of its rules, primarily with respect to pharmacy records, but also with a large number of technical revisions relating to editorial style. The impetus for the new rules is Act 602 of the 2018 Legislature, which added the term "chart order" to the pharmacy law and authorizes their use in pharmacies.

The substantive changes in Chapter 11 include deletion of the requirement for pharmacies to maintain printed versions of the Louisiana Board of Pharmacy Laws and Regulations in §1103.K, deletion of the requirement for the pharmacist-in-charge affidavit to be notarized in §1105.J, insertion of the term "chart order" and its statutory definition in §1119, insertion of provisions authorizing use of chart orders in various types of pharmacy records in §1123 and §1124, deletion of Subsection M in §1123 and the terms "inpatient prescription" and "dispensing of drug pursuant to an inpatient prescription" in §1124, all of which had been necessary due to the absence of chart orders in the Board's rules, insertion of a new §1145 enabling remote access to prescription records and chart orders in pharmacies, and insertion of a new §1147 enabling a pharmacy to share chart orders with certain pharmacies.

The substantive changes in Chapter 15 include deletion of the term "hospital prescription" and "dispensing of a drug pursuant to a hospital prescription", both of which had been necessary due to the absence of chart orders in the Board's rules, deletion of §1507 which is now duplicative of the same two-year practice requirement for pharmacists-in-charge for all pharmacies and now found in §1105, and deletion of §1527 relative to remote access to medical orders, the content of which is being relocated to the new §1145 in Chapter 11.

The substantive changes in Chapter 17 removes the requirement in §1711 for the emergency drug kit (EDK) permit to be conspicuously displayed at the provider pharmacy as long as it is readily retrievable, and insertion of

a new Subsection E in §1711 enabling the relinquishment of an EDK permit when the pharmacy intends to cancel it prior to the next renewal.

The substantive changes in Chapter 25 inserts the term "chart orders" and its statutory definition in §2511, makes provisions for the use of chart orders in pharmacy records in §2511 and §2513, and inserts a new Subsection F in §2511 enabling procedures for pharmacists to record changes in incomplete prescriptions and chart orders. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 11. Pharmacies
Subchapter A. General Requirements
§1124. Records of Pharmacy Services for Patients in Licensed Healthcare Facilities Other than Hospitals

A. Definitions

Dispensing of a Drug Pursuant to an Inpatient Prescription—Repealed.

* * *

Inpatient Prescription—Repealed.

* * *

Positive Identification—

a. has the same meaning as defined in Section 1119 of this Chapter, except that a specific facility having a closed electronic drug record keeping system may be permitted to use identifiers utilizing both a password combined with a personal identifier to document the positive identification of each user for the prescribing and administration of a drug, provided the pharmacist-in-charge has determined:

a.i. - a.v. …

b. all of the above notwithstanding, however, positive identification as defined in Section 1119 of this Chapter shall always be used to document the:

b.i. - b.iii. …

B. - B.1. …

2. Inventories. The pharmacist-in-charge shall be responsible for the performance of an annual inventory of all controlled dangerous substances within his span of control, in compliance with the provisions of Section 2733 of this Part.

B.3. - B.3.b.ii.(d). …

iii. Records of drugs dispensed to patients for use outside the facility shall be maintained in compliance with Section 1123 of this Chapter.

c. A record of all drugs compounded or prepackaged for use only within a healthcare facility, which shall include at least the following:

B.3.c.i. – B.3.e.iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:2255 (November 2014), effective January 1, 2015, amended by Department of Health, Board of Pharmacy, LR 46:582 (April 2020), LR 46:694 (May 2020).

Malcolm J Broussard
Executive Director

2005#014

RULE

Department of Health
Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII.541)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XXVII.541 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 XXVII. Medical Transportation Program
Chapter 5. Non-Emergency Medical Transportation
Subchapter C. Provider Responsibilities
§541. Provider Enrollment

A. All transportation providers must comply with the published rules and regulations governing the Medicaid Transportation Program, all state laws, and the regulations of any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of $25,000 per person, $50,000 per accident and $25,000 property damage policy.

1. The liability policy shall cover any and all:

a. - b. ...

c. non-owned autos; or

d. scheduled autos;

e. hired autos; and

f. non-owned autos.

2. Statements of insurance coverage from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must be received by the department no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing.

3. Upon notice of cancellation or expiration of the coverage, the department will immediately revoke the provider's Medicaid provider agreement. The ending date of the provider's participation in the Medicaid program shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted.

C. As a condition of reimbursement for transporting Medicaid recipients to medical or behavioral health services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid driver's license. No special inspection by the department will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the department is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment,

certifying that all three requirements are met. Family and friends may be enrolled and allowed to transport up to three specific Medicaid recipients or all members of one household. The recipients to be transported by each such provider will be noted in the computer files of the department. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 20:1115-1117 (October 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1092 (July 2016), LR 46:694 (May 2020).

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.

Dr. Courtney N. Phillips
Secretary

2005#046

RULE

Department of Health
Bureau of Health Services Financing

Nursing Facilities
Optional State Assessment
(LAC 50:II.10123 and 20001)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.10123 and 20001 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 3. Standards for Payment
Chapter 101. Standards for Payment for Nursing Facilities
Subchapter D. Resident Care Services
§10123. Comprehensive Assessment

A. The facility must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity and needs, in relation to a number of specified areas. Comprehensive assessments must:

A.1. - F. ...

1. Components of comprehensive assessment (RAI):

a. - b. ...

c. care area assessment; and

1.d. - 5. ...

6. Quarterly Assessment and Optional Progress Notes—to track resident status between assessments and to ensure monitoring of critical indicators of the gradual onset of significant declines in resident status, a registered nurse:

a. - b.viii. ...

7. Triggers—Level of measurement (coding categories) of MDS elements that identify residents who require evaluation using the care area assessment (CAA) process.

8 - 8.g. Repealed.

G. Care Area Assessment (CAA) Process and Care Planning

1. CAAs are triggered responses to items coded on the MDS specific to a resident's possible problems, needs or strengths.

2. The CAA process provides:

a. a framework for guiding the review of triggered areas;

b. clarification of a resident's functional status and related causes of impairments; and

c. a basis for additional assessment of potential issues, including related risk factors.

3. The CAA must:

a. be conducted or coordinated by a registered nurse (RN) with the appropriate participation of health professionals;

b. have input that is needed for clinical decision making (e.g., identifying causes and selecting interventions) that is consistent with relevant clinical standards of practice; and

c. address each care area identified under CMS's RAI Version 3.0 Manual, section 4.10, Table 10 (The Twenty Care Areas).

4. CAA documentation should indicate:

a. the basis for decision making;

b. why the finding(s) require(s), or does not require, an intervention; and

c. the rationale(s) for selecting specific interventions.

H. Effective for assessments with assessment reference dates October 1, 2020 and after, the Department of Health mandates the use of the optional state assessment (OSA) item set. The OAS item set is required to be completed in conjunction with each assessment and at each assessment interval detailed within this Section. The OSA item set must have an assessment reference date that is identical to that of the assessment it was performed in conjunction with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended by the Department of Health, Bureau of Health Services Financing, LR 46:695 (May 2020).

Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20001. General Provisions

A. Definitions

* * *

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care nursing facility providers certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within nursing facility providers, between nursing facility providers, and

between nursing facility providers and outside agencies. The Louisiana system will employ the current required MDS assessment as approved by the Centers for Medicare and Medicaid Services (CMS), or as mandated by the Department of Health through the use of optional state assessment (OSA).

* * *

B. - C.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:525 (March 2017), LR 43:2187 (November 2017), LR 46:695 (May 2020).

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.

Dr. Courtney N. Phillips
Secretary

2005#047

RULE

Department of Insurance
Office of the Commissioner

Regulation 82—Insure Louisiana Incentive Program
(LAC 37:XIII.Chapter 123)

The Department of Insurance, pursuant to the authority of Louisiana Insurance Code, R.S. 22:1 et seq., specifically R.S. 22:11, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. has repealed Regulation 82—Insure Louisiana Incentive Program.

The purpose of Regulation 82 was to implement and provide guidance on the Insure Louisiana Incentive Program (R.S. 22:2361 et seq.) for qualified property insurers participating or seeking to participate in the program. Regulation 82 is hereby repealed following Acts 2009, Nos. 226 and 404, whereby the state legislature repealed R.S. 22:2371-2372, abolished the Insure Louisiana Incentive Program Fund, and directed any unexpended, unencumbered monies remaining in the fund for deposit in and credit to the state general fund. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 123. Regulation 82—Insure Louisiana Incentive Program

§12301. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007), repealed LR 46:696 (May 2020).

§12303. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007), repealed LR 46:696 (May 2020).

§12305. Applicability and Scope

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007), repealed LR 46:696 (May 2020).

§12307. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007), amended LR 35:2784 (December 2009), repealed LR 46:696 (May 2020).

§12309. Matching Capital Grants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), repealed LR 46:696 (May 2020).

§12311. Public Invitation for Grant Applications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), repealed LR 46:696 (May 2020).

§12313. Applications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), repealed LR 46:696 (May 2020).

§12315. Qualifications for Applying for Grant Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), amended LR 35: 2784 (December 2009), repealed LR 46:696 (May 2020).

§12317. Award and Allocation of Grants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007), repealed LR 46:697 (May 2020).

§12319. Authorized Insurers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2660 (December 2007), repealed LR 46:697 (May 2020).

§12321. Matching Capital Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2660 (December 2007), repealed LR 46:697 (May 2020).

§12323. Property Insurance Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2661 (December 2007), amended LR 35: 2784 (December 2009), repealed LR 46:697 (May 2020).

§12325. Funding Schedule
[Formerly §12327]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), repromulgated LR 35: 2784 (December 2009), repealed LR 46:697 (May 2020).

§12327. Reporting Requirements
[Formerly §12329]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:2784 (December 2009), repealed LR 46:697 (May 2020).

§12329. Compliance
[Formerly §12331]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:2784 (December 2009), repealed LR 46:697 (May 2020).

§12331. Earned Capital
[Formerly §12325]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2661 (December 2007), amended LR 35:2785 (December 2009) repealed LR 46:697 (May 2020).

§12333. Declaration of Default

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), amended LR 35:2785 (December 2009), repealed LR 46:697 (May 2020).

§12335. Cooperative Endeavor Agreements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007), repealed LR 46:697 (May 2020).

§12337. Severability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2663 (December 2007), repealed LR 46:697 (May 2020).

§12339. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:2361 et seq. (re-designated from R.S. 22:3301 pursuant to Acts 2008, No. 415, effective January 1, 2009), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2663 (December 2007), amended LR 35:2786 (December 2009), repealed LR 46:697 (May 2020).

James J. Donelon
Commissioner

2005#013

RULE

Department of Insurance
Office of the Commissioner

Regulation 116—Stop-Loss or Excess Policies of Insurance
(LAC 37:XIII.Chapter 169)

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 promulgated Regulation 116, Stop-Loss or Excess Policies of Insurance. This regulation has been in order to codify the types of stop-loss or excess policies that can be used by employers sponsoring group health plans and in order to codify the requirements for disclosures under R.S. 22:883. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 169. Regulation 116—Stop-Loss or Excess Policies of Insurance

§16901. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2001, No. 273 of the Louisiana Legislature, Regular Session, as well as to implement the amendments thereto as set forth in Acts 2003, No. 140 of the Louisiana Legislature, Regular Session, Acts 2007, No. 80 of the Louisiana Legislature, Regular Session, and Acts 2010, No. 375 of the Louisiana Legislature, Regular Session.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:698 (May 2020).

§16903. Applicability and Scope

A. This regulation shall apply to employers that sponsor group health plans.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:698 (May 2020).

§16905. Definitions

Group Health Plan—an employee welfare benefit plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) to the extent that the plan provides medical care as defined in this regulation and including items and services paid for as medical care for employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise, or only to a multiple employer welfare arrangement that is a self-insurer and does not include those multiple employer welfare arrangements that meet the definition in 29 U.S.C. 1002(40).

Medical Care—amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any stricture or function of the body; transportation primarily for and essential to such medical care; and amounts paid for insurance covering such medical care, as defined in R.S. 22:1061(1)(b).

Paid Contract Basis—allows claims incurred under a "group health plan" during the contract period of a stop-loss or excess policy to be paid during the policy's twelve-month contract period.

Run-In Contract Basis—allows for reimbursement of claims incurred under a group health plan during a stated period prior to the effective date of the twelve-month contract period of a stop-loss or excess policy and paid during the twelve-month contract period.

Run-Out Contract Basis—allows for reimbursement of claims incurred under a group health plan during the stated twelve-month contract period and paid within a stated period extending at least 90 days after expiration of the twelve-month contract period.

Self-Insurance Plan—any contract, plan, trust, arrangement, or other agreement which is established or maintained to offer or provide health care services, indemnification, or payment for health care services, or health and accident benefits to employees of two or more employers, but which is not fully insured. Any such contract, plan, trust, arrangement, or agreement shall be deemed fully insured only if said services, indemnification, payment, or benefits are guaranteed under a contract or policy of health insurance issued by an insurer authorized to transact business in this state. The term *self-insurance plan* shall not include any arrangement or trust formed under Subpart J of Part I of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950 (R.S. 23:1191 et seq.), single employer plans, plans exempt from the state insurance laws under the provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), except as provided in R.S. 22:463, the Office of Group Benefits, plans of political subdivisions, health maintenance organizations regulated under the Health Management Organization Act, R.S. 22:241 et seq., plans regulated under R.S. 33:1342, 1343, 1346, or 1349, and plans otherwise regulated as insured plans under this Title. A plan of a fraternal benefit society or a labor organization shall not be considered a self-insurance plan for the purposes of this Subpart to the extent that such plan provides health and accident benefits to its members and any of their dependents that are supplemental to those of an employer-provided plan.

Self-Insured Multiple Employer Welfare Arrangement—a multiple employer welfare arrangement as defined in 29 U.S.C. § 1002(40).

Self-Insurer—any entity that makes, provides, or issues a self-insurance plan and is licensed by the LDI.

Stop-Loss or *Excess Policy/Policies*—insurance covering the losses of an insured above a specific amount or a self-insurer for losses over a stated amount.

Terminal Liability—group health plan that provides an extra ninety days of protection upon termination of the Run-out contract period.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:698 (May 2020).

§16907. Eligible Claims

A. Stop-loss or excess policies are required to contain a provision that eligible claims incurred under the group health plan during the initial contract period shall be covered, provided that proof of payment of the eligible claims by the group health plan is furnished to the stop-loss or excess insurer within ninety days after the expiration of

the stop-loss or excess policy or any later period that is provided in the contract or stop-loss or excess policy.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:698 (May 2020).

§16909. Available Claims Incurred and Paid Contract Bases

A. The following claims incurred and paid contract bases are available to suit the needs of diverse employers sponsoring group health plans:

1. paid as defined in Section 16903;
2. run-in as defined in Section 16903;
3. run-out as defined in Section 16903;
4. terminal liability as defined in Section 16903.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16911 Policy Form Requirements

A. Stop loss or excess policy forms intended to cover the losses of a group health plan must include the following requirements.

1. Eligible claims incurred under the group health plan during the initial contract period will be covered, as long as the "group health plan" submits to the stop loss or excess insurer proof of payment of the eligible claim within 90 days after the expiration of the policy, or within any longer period that is provided in the contract or policy.

2. All applications for stop-loss or excess coverage must include the option to purchase a policy providing coverage on a run-out contract basis. A run-out contract basis extends the claims paid period for at least 90 days beyond expiration of the twelve-month contract term, the period within which claims incurred during the contract term must be submitted and paid.

3. All applications for stop-loss or excess insurance coverage that include the option to purchase a policy providing coverage restricted to claims both incurred and paid during the contract term must contain a form for acceptance or rejection of the ninety-day extension for claims to be submitted and paid, i.e., run-out coverage. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application form containing disclosures such as the following.

a. "It is hereby agreed and understood that the stop-loss [excess] insurance contract selected does not provide reimbursement to the plan sponsor for any expenses incurred under the "group health plan" prior to the beginning of the contract period for stop-loss [excess] insurance or for any expenses paid after expiration of the contract period. Only eligible expenses that are both incurred under the group health plan and paid by the group health plan within the twelve-month contract period for stop-loss [excess] insurance are reimbursable under the contract selected."

4. All applications for stop-loss or excess insurance including options to purchase a policy providing coverage on a run-in or a paid contract basis must contain a form for acceptance or rejection. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application containing a disclosure such as the following.

a. "It is hereby agreed and understood that the stop-loss [excess] insurance contract selected does not provide reimbursement to the plan sponsor for any expenses that are not paid by the group health plan within the current contract period, unless the policy is subsequently renewed. Only eligible expenses that are both incurred and paid by the group health plan within the stated contract period are reimbursable under the contract selected."

5. If offered, provisions for terminal liability coverage must extend the period for payment of claims under the group health plan by at least an additional 90 days from termination of the run-out coverage period allowed for incurred claims.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16913. Reinsurance/Health Insurance

A. Stop-loss or excess insurance shall not be equivalent to reinsurance, nor shall it be referred to as a contract or policy of health insurance under R.S. 22:452(1)(a).

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16915. Due Diligence

A. Stop loss or excess insurers shall exercise due diligence in ascertaining the legitimacy or authority of the underlying group health plan before issuing coverage. This shall include but not be limited to ensuring that the underlying plan is not a self-insured multiple employer welfare arrangement pursuant to 29 U.S.C. §1002(40), unless the underlying plan is authorized to do business in this state as a self-insurer and meets the requirements of R.S. 22:452.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16917. Additional Requirements for Stop-Loss or Excess Insurance

A. Stop loss or excess insurance issued to a self-insurance plan must meet the following requirements.

1. The plan must include a provision stating that aggregate stop-loss or excess coverage and specific stop-loss or excess coverage may only be provided by an insurer licensed to do business in the state of Louisiana.

2. The stop-loss or excess policies must contain provisions to cover incurred, unpaid claims liability in the event of plan termination.

3. The stop-loss or excess insurer shall bear the risk of coverage for any employer participating in the self-insurance plan that becomes insolvent with outstanding contributions due.

4. The stop-loss or excess insurer shall provide coverage with rates not subject to adjustment by the stop-loss or excess insurer during the first 12 months of coverage, unless:

a. there is a change in the benefits provided under the group health plan; and/or

b. enrollment under the group health plan changes by at least 10 percent.

5. A stop loss or excess insurer must submit its proposed stop-loss or excess policy to the Commissioner of the Department of Insurance for review at least 30 days prior to the proposed self-insurance plan's effective date and at least 30 days prior to any subsequent renewal date.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16919. Severability

A. If any provision of this regulation, or the applicability thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:700 (May 2020).

§16921. Effective Date

A. Regulation 116 shall become effective upon final promulgation in the *Louisiana Register.*

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:700 (May 2020).

James J. Donelon
Commissioner

2005#006

RULE

Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission

Rulemaking Petitions (LAC 55:IX.Chapter 5)

In accordance with the Administrative Procedures Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Department of Public Safety and Corrections, Public Safety Services, Liquefied Petroleum Gas Commission, has adopted a Rule outlining the process for considering rulemaking petitions. This Rule is hereby adopted on the day of promulgation.

Title 55
PUBLIC SAFETY
Part IX. Liquefied Petroleum Gas
Chapter 5. Rulemaking Petitions

§501. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition the Liquefied Petroleum Gas Commission, commonly known as and hereafter referred to as the LP Gas Commission, for the adoption, amending or repeal of any rule, an interested person shall submit in writing the Department of Public Safety's petition for rulemaking form to the LP Gas Commission at 7919 Independence Boulevard, Baton Rouge, LA 70806, Attn: Rulemaking Petition, which contains the following basic information organized and captioned:

1. the petitioner's name and address;

2. the specific rulemaking agency to be petitioned within the Department of Public Safety as listed on the form;

3. a brief description of the facts or justification supporting the petitioner's request for the adoption of a rule or the amending of a rule that has already been adopted;

4. suggested specific language or language setting forth the substance of the proposed rule or rule change that is being requested, which may be attached to, or in addition to, the petition for rulemaking form;

5. a copy of each and every document upon which the petitioner bases the petitioner's request for a rule or a citation of the information and where it can be easily obtained for review by the rulemaking agency;

6. the petitioner's signature and date of signature.

C. The Department of Public Safety's petition for rulemaking form can be found on the official website of the LP Gas Commission.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 46:700 (May 2020).

§503. Consideration of a Rulemaking Petition

A. Upon receipt of a petition for rulemaking form, the executive director shall forward the petition to the agency designee. The agency designee shall review the petition for completeness pursuant to the requirements listed in LAC 55:IX.501.B. If the petition is found to be complete, the agency designee shall consider the petition.

B. Within 90 days of receipt of the petition, the executive director or the agency designee shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend an existing rule; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

C. Whenever the executive director or the agency designee determines that a public hearing should be held prior to the adoption of any rule or rule change, a notice of the meeting date, time and place will be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 46:700 (May 2020).

John W. Alario
Executive Director

2005#027

RULE

Department of Public Safety and Corrections
Office of Management and Finance

Rulemaking Petitions (LAC 55:XI.Chapter 5)

In accordance with the Administrative Procedures Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, has adopted a Rule outlining the process for considering rulemaking petitions. This Rule is hereby adopted on the day of promulgation.

Title 55
PUBLIC SAFETY
Part XI. Management and Finance
Chapter 5. Rulemaking Petitions
§501. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition the Office of Management and Finance for the adoption, amending or repeal of any rule, an interested person shall submit in writing the Department of Public Safety's petition for rulemaking form to Department of Public Safety, Office of Management and Finance at 7919 Independence Boulevard, Baton Rouge, LA 70806, Attn: Rulemaking Petition, which contains the following basic information organized and captioned:

1. the petitioner's name and address;
2. the specific rulemaking agency to be petitioned within the Department of Public Safety as listed on the form;
3. a brief description of the facts or justification supporting the petitioner's request for the adoption of a rule or the amending of a rule that has already been adopted;
4. suggested specific language or language setting forth the substance of the proposed rule or rule change that is being requested, which may be attached to, or in addition to, the petition for rulemaking form;
5. a copy of each and every document upon which the petitioner bases the petitioner's request for a rule or a citation of the information and where it can be easily obtained for review by the rulemaking agency;
6. the petitioner's signature and date of signature.

C. The Department of Public Safety's petition for rulemaking form can be found on the official website of the Department of Public Safety, Office of Management and Finance.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance LR 46:701 (May 2020).

§503. Consideration of a Rulemaking Petition

A. Upon receipt of a petition for rulemaking form, the chief administrative officer shall forward the petition to his agency designee. The agency designee shall review the petition for completeness pursuant to the requirements listed in LAC 55:XI.501.B. If the petition is found to be complete, the agency designee shall consider the petition.

B. Within 90 days of receipt of the petition, the chief administrative officer or his agency designee shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

C. Whenever the chief administrative officer or his agency designee determines that a public hearing should be held prior to the adoption of any rule or rule change, a notice of the meeting date, time and place will be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Management and Finance, LR 46:701 (May 2020).

Lt. Colonel Jason Starnes
Deputy Superintendent
Chief Administrative Officer

2005#026

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Fire Marshal

Rulemaking Petitions (LAC 55:V.Chapter 1)

In accordance with the Administrative Procedures Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Department of Public Safety and Corrections, Public Safety Services, Office of State Fire Marshal, has adopted a Rule outlining the process for considering rulemaking petitions. This Rule is hereby adopted on the day of promulgation.

Title 55
PUBLIC SAFETY
Part V. Fire Protection
Chapter 1. Preliminary Provisions
§101. Petition for Rulemaking

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition the Office of State Fire Marshal for the adoption, amending or repeal of any rule, an interested person shall submit in writing the Department of Public Safety's petition for rulemaking form to the Office of State Fire Marshal at 8181 Independence Boulevard, Baton Rouge, LA 70806, Attn: Rulemaking Petition, which contains the following basic information organized and captioned:

1. the petitioner's name and address;
2. the specific rulemaking agency to be petitioned within the Department of Public Safety as listed on the form;
3. a brief description of the facts or justification supporting the petitioner's request for the adoption of a rule or the amending of a rule that has already been adopted;
4. suggested specific language or language setting forth the substance of the proposed rule or rule change that is being requested, which may be attached to, or in addition to, the petition for rulemaking form;

5. a copy of each and every document upon which the petitioner bases the request for a rule or a citation of the information and where it can be easily obtained for review by the rulemaking agency;

6. the petitioner's signature and date of signature.

C. The Department of Public Safety's petition for rulemaking form can be found on the official website of the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F), R.S. 40:1578.6(A), Act 454 of the 2018 Regular Legislative Session and R.S. 49:953 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:465 (November 1978), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 6:71 (February 1980), LR 23:1688 (December 1997), LR 43:968 (May 2017), LR 46:701 (May 2020).

§102. Consideration of a Rulemaking Petition

A. Upon receipt of a petition for rulemaking form, the state fire marshal shall forward the petition to the agency designee. The agency designee shall review the petition for completeness, pursuant to the requirements listed in LAC 55:V.101.B. If the petition is found to be complete, the agency designee shall consider the petition.

B. Within 90 days of receipt of the petition, the state fire marshal or the agency designee shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend an existing rule and notify the petitioner in writing of such; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

C. Whenever the state fire marshal or the agency designee determines that a public hearing should be held prior to the adoption of any rule or rule change, a notice of the meeting date, time and place will be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 46:702 (May 2020).

Chief H. "Butch" Browning, Jr.
State Fire Marshal

2005#028

RULE

Department of Public Safety and Corrections
Office of State Police

Rulemaking Petitions (LAC 55:I.Chapter 33)

In accordance with the Administrative Procedures Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, has adopted a Rule outlining the process for considering rulemaking petitions. This Rule is hereby adopted on the day of promulgation.

Title 55
PUBLIC SAFETY
Part I. State Police

Chapter 33. Rulemaking Petitions

§3301. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition the Office of State Police, commonly known as and hereafter referred to as the Louisiana State Police, for the adoption, amending or repeal of any rule, an interested person shall submit in writing the Department of Public Safety's petition for rulemaking form to Louisiana State Police at 7919 Independence Boulevard, Box A-24, Baton Rouge, LA 70806, Attn: Rulemaking Petition, which contains the following basic information organized and captioned:

1. the petitioner's name and address;

2. the specific rulemaking agency to be petitioned within the Department of Public Safety as listed on the form;

3. a brief description of the facts or justification supporting the petitioner's request for the adoption of a rule or the amending of a rule that has already been adopted;

4. suggested specific language or language setting forth the substance of the proposed rule or rule change that is being requested, which may be attached to, or in addition to, the petition for rulemaking form;

5. a copy of each and every document upon which the petitioner bases the petitioner's request for a rule or a citation of the information and where it can be easily obtained for review by the rulemaking agency;

6. the petitioner's signature and date of signature.

C. The Department of Public Safety's petition for rulemaking form can be found on the official website of the Louisiana State Police.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 46:702 (May 2020).

§3303. Consideration of a Rulemaking Petition

A. Upon receipt of a petition for rulemaking form, the superintendent shall forward the petition to the agency designee. The agency designee shall review the petition for completeness pursuant to the requirements listed in LAC 55:I.3301.B. If the petition is found to be complete, the agency designee shall consider the petition.

B. Within 90 days of receipt of the petition, the superintendent or the agency designee shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend an existing rule; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

C. Whenever the superintendent or the agency designee determines that a public hearing should be held prior to the adoption of any rule or rule change, a notice of the meeting date, time and place will be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 46:702 (May 2020).

Lt. Colonel Jason Starnes
Deputy Superintendent
Chief Administrative Officer

2005#029

RULE

Department of Public Safety and Corrections
Oil Spill Coordinator's Office

Rulemaking Petitions (LAC 43:XXIX.Chapter 2)

In accordance with the Administrative Procedures Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Department of Public Safety and Corrections, Public Safety Services, Louisiana Oil Spill Coordinator's Office, has adopted a Rule outlining the process for considering rulemaking petitions. This Rule is hereby adopted on the day of promulgation.

Title 43
NATURAL RESOURCES
Part XXIX. Oil Spill Prevention and Response
Chapter 2. Rulemaking Petitions

§201. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition the Louisiana Oil Spill Coordinator's Office for the adoption, amending or repeal of any rule, an interested person shall submit in writing the Department of Public Safety's petition for rulemaking form to: Louisiana Oil Spill Coordinator's Office, 7979 Independence Boulevard, Suite 104, Baton Rouge, LA 70806, Attn: Rulemaking Petition, which contains the following basic information organized and captioned:

1. the petitioner's name and address;
2. the specific rulemaking agency to be petitioned within the Department of Public Safety as listed on the form;
3. a brief description of the facts or justification supporting the petitioner's request for the adoption of a rule or the amending of a rule that has already been adopted;
4. suggested specific language or language setting forth the substance of the proposed rule or rule change that is being requested, which may be attached to, or in addition to, the petition for rulemaking form;
5. a copy of each and every document upon which the petitioner bases the request for a rule or a citation of the information and where it can be easily obtained for review by the rulemaking agency; and
6. the petitioner's signature and date of signature.

C. The Department of Public Safety's petition for rulemaking form can be found on the official website of the Louisiana Oil Spill Coordinator's Office.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq. and R.S. 30:2457

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Louisiana Oil Spill Coordinator's Office, LR 46:703 (May 2020).

§203. Consideration of a Rulemaking Petition

A. Upon receipt of a petition for rulemaking form, the deputy coordinator shall forward the petition to the agency designee. The agency designee shall review the petition for completeness pursuant to the requirements listed in LAC 43:XXIX.201.B. If the petition is found to be complete, the agency designee shall consider the petition.

B. Within 90 days of receipt of the petition, the deputy coordinator or designee shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

C. Whenever the deputy coordinator or designee determines that a public hearing should be held prior to the adoption of any rule or rule change, a notice of the meeting date, time and place will be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq. and R.S. 30:2457

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Louisiana Oil Spill Coordinator's Office, LR 46:703 (May 2020).

Samuel E. Jones
Oil Spill Coordinator

2005#007

RULE

Department of Transportation and Development
Office of Engineering

Louisiana Transportation Research Center (LTRC)
Transportation Training and Education Fund
(LAC 70:XXVII.101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 48:105.1, the Department of Transportation and Development, Office of Engineering, has amended Part XXVII, Chapter 1, of Title 70 entitled "LTRC Transportation Training and Education Fund", to allow for the fund to pay for the expenses of the maintenance and upkeep of the Louisiana Transportation Research Center (LTRC) building, not funded by Louisiana State University, in order to be consistent with the payment of the expenses for the maintenance and upkeep of the LTRC's Transportation and Training Education Center (TTEC) building, and to remove the obsolete fund authorized account agents and fund accounting processes which are now inoperable, due to the closure of the fund checking account and implementation of the current LaGov processes which are systematically in

place to cover all fund expenditures. This Rule is hereby adopted on the day of promulgation.

Title 70
TRANSPORTATION
Part XXVII. Louisiana Transportation Research Center (LTRC)
Chapter 1. LTRC Transportation Training and Education Fund
§101. General Provisions

A. All fees collected shall be deposited in the fund or disbursed from the fund as provided in R.S. 48:105.1 and in the following rules.

B. All monies deposited in the fund in compliance with the statute shall be used to defray the expenses associated with workforce development activities of the Louisiana Transportation Research Center (LTRC) and LTRC's Transportation and Training Education Center (TTEC).

C. Allowable expenses include (but are not limited to):

1. course development and delivery costs for courses organized and managed by LTRC;

2. direct workforce development training costs, such as reimbursement for events or courses organized and managed by LTRC;

3. maintenance and upkeep of the LTRC and TTEC buildings not funded by Louisiana State University;

4. maintenance, upkeep, upgrade, or replacement of the audio visual equipment, to include all software and hardware used by LTRC for workforce development activities, such as classes, conferences, meetings, etc.;

5. purchase, maintenance, upkeep, upgrade, or replacement of computer equipment, including peripherals, used in the development and dissemination of training materials used for workforce development;

6. supplies and other items purchased in direct support of workforce development activities.

D. Prohibited expenses include:

1. purchase of supplies not directly related to workforce development activities;

2. any and all travel expenses;

3. individual membership dues to professional organizations;

4. conference/meeting/training registration fees;

5. any form of personal use, such as cash advances, gifts, entertainment-related expenses;

6. alcohol.

E. Ethics

1. Agents authorized to collect and disburse funds from the account must comply with the regulations relative to ethical conduct under the Code of Governmental Ethics, Chapter 15 of Title 42 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated by the Louisiana Department of Transportation and Development, Louisiana Transportation Research Center, pursuant to R.S. 48:105.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Transportation and Development, Louisiana Transportation Research Center, LR 37:354 (January 2011), amended LR 46:704 (May 2020).

Shawn Wilson, Ph.D.
Secretary

2005#001

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Deer Management Assistant Program (DMAP)
(LAC 76:V.111)

The Wildlife and Fisheries Commission has amended the rules and regulations for participation in the Deer Management Assistance Program (DMAP). The amendment will add an extra 10 days for squirrel hunting if requested by DMAP level 1 cooperators. This Rule is hereby adopted on the day of promulgation.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§111. Rules and Regulations for Participation in the Deer Management Assistance Program

A. The following rules and regulations shall govern the Deer Management Assistance Program.

1. Application Procedure

a. - j. …

k. The department may grant season extensions to hunt deer with any legal weapon, up to either 15 days prior to or after the established season framework for the regular deer area season, if requested by the DMAP level 1 cooperator in order to fulfill property-specific objectives and goals if biological reasons and limitations exist that support such extensions. Additionally, the department may grant season extensions to hunt rabbits and squirrels by any legal means for up to 10 days after the established rabbit and squirrel season framework, if requested by the DMAP level 1 cooperator in order to fulfill property-specific objectives and goals if biological reasons and limitations exist that support such extensions.

A.2. - B.1.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:110.1 and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004), LR 34:1427 (July 2008), LR 35:1910 (September 2009), LR 37:2187 (July 2011), repromulgated LR 37:2753 (September 2011), amended LR 39:2292 (August 2013), LR 41:1123 (June 2015), LR 46:704 (May 2020).

Jack Montoucet
Secretary

2005#016

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Reef Fish—Harvest Regulations
(LAC 76:VII.335)

The Wildlife and Fisheries Commission has amended a Rule (LAC 76:VII.335) modifying existing reef fish harvest regulations. These changes modify the closed season for the recreational harvest of red snapper from October 1 through the Friday before Palm Sunday of the following year to whenever the season may close in the prior year, or January 1 if not previously closed through the Thursday before Memorial Day. This change will allow the recreational season for the harvest of red snapper to open on the Friday before Memorial Day of each year. The season modification also adds the 4th of July as an open date, regardless of which day it falls. Modifications are a result of the implementation of state management of the private recreational red snapper fishery in federal waters. The Rule clarifies language related to state management of red snapper and further allows secretarial authority to modify size limits of red snapper under the provisions of NOAA delegated state management of red snapper. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, and 56:326.3 to the Wildlife and Fisheries Commission. This Rule is hereby adopted on the day of promulgation.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish—Harvest Regulations

A. - G.1. …

* * *

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. Gag	January 1-June 30 of each year
b. Black, red, yellowfin, and yellowmouth groupers, and scamp	February 1-March 31 of each year in waters seaward of the 20 fathom boundary
c. Red Snapper	From the closure of the season the prior year, or January 1 if the season has not previously closed, through the Thursday before Memorial Day. The open season shall be for weekends only. A *weekend* is defined as Friday, Saturday and Sunday, with the exception of Memorial Day and Labor Day, when Monday would be classified as a weekend. The 4th of July will be considered an open date, regardless of what day it falls.
d. Greater Amberjack	January 1-April 30, June 1-July 31, and November 1-December 31 of each year.
e. Gray Triggerfish	January 1-end of February of each year and June 1-July 31 of each year.

G.3. - G.4. …

5. The secretary of the Department of Wildlife and Fisheries is hereby authorized, upon notification to the chairman of the Wildlife and Fisheries Commission, to close, open, re-open or re-close any reef fish season as needed when informed of such by the National Marine Fisheries Service in order to maintain consistency with modifications in the adjacent federal waters, should the federal seasons be modified. The secretary may also modify those portions of this rule pertaining to red snapper recreational daily harvest limits, size limits, and red snapper recreational seasons under the provisions of NOAA delegated state management for the species or if he deems it necessary, following notification of the chairperson of the Wildlife and Fisheries Commission.

H. - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38:2383 (September 2012), LR 39:330 (February 2013), LR 40:95 (January 2014), repromulgated LR 40:1116 (June 2014), LR 40:2281 (November 2014), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 42:908 (June 2016), repromulgated LR 43:89 (January 2017), LR 44:1458 (August 2018), LR 46:705 (May2020).

Jack Montoucet
Secretary

2005#017

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Queen Bess Island Wildlife Refuge
(LAC 76:III.339)

The Wildlife and Fisheries Commission has adopted regulations for Queen Bess Island Wildlife Refuge. This Rule is hereby adopted on the day of promulgation.

Title 76
WILDLIFE AND FISHERIES
Part III. Game and Fish Preserves and Sanctuaries
Chapter 3. Particular Game and Fish Preserves, Wildlife Management Areas, Refuges and Conservation Areas
§339. Queen Bess Island Wildlife Refuge

A. Visitor regulations for Queen Bess Island Wildlife Refuge:

1. hunting prohibited;

2. access prohibited February 1 through September 30;

3. no disturbance or removal of vegetation or natural debris from island;

4. no fishing between the breakwaters and the island from February 1 through September 30;

5. vehicles will be prohibited;

6. no nighttime activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6, R.S. 56:109, R.S. 56:109.2, R.S. 56:763 and R.S. 56:781 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 46:705 (May 2020).

Jack Montoucet
Seretary

2005#015

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Diploma Integrity—Individual Graduation Plans and Credit Recovery Courses and Units
(LAC 28:CXV.901 and 2324)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CXV (Bulletin 741). Proposed amendments will provide clarity for credit recovery courses and units and establish best-practices for valid course recognition. Beginning with the 2020-2021 school year, graduating seniors must finalize individual graduation plans (IGPs) with the school counselor. Further, prior to being awarded a diploma, all academic records must be uploaded to the state student transcript system (STS) with a graduation date posted.

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

Chapter 9. Scheduling

§901. Scheduling

A. - E. …

F. Beginning with the 2020-2021 school year, the school counselor must:

1. finalize the individual graduation plan for each graduating senior;

2. upload all academic records into the state student transcript system (STS); and

3. post the student's graduation date prior to the awarding of a diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:175, and 17:183.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:2204 (August 2013), LR 40:2522 (December 2014), LR 42:557 (April 2016), LR 43:2483 (December 2017), LR 46:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2324. Credit Recovery Courses and Units

A. …

B. LEAs may implement credit recovery programs.

1. Beginning in 2020-2021, LEA credit recovery program and policy will be included in the local pupil progression plan submitted to LDE.

2. Students may earn a maximum of seven credit recovery units that may be applied towards diploma graduation requirements and no more than two Carnegie units annually. The school system must annually report to LDE the rationale for any student:

a. receiving more than two credit recovery credits annually; and/or

b. applying more than seven total credit recovery Carnegie units towards graduation requirements.

3. Students earning Carnegie credit in a credit recovery course must have previously taken and failed the course. Previously-attempted coursework is considered an academic record and must be recorded on the official transcript.

4. Completed credit recovery courses must be recorded and clearly labeled on the official transcript.

a. Repealed.

5. Students enrolled in credit recovery courses are not required to meet the instructional minute requirements found in §333.A of this Part.

6. Credit recovery courses must be aligned with state content standards and include a standards-aligned pre-assessment to identify unfinished learning and a standards-aligned post-assessment to demonstrate course proficiency for content identified as non-proficient.

7. Credit recovery courses taught in a classroom setting using online courses designed for credit recovery must have an assigned certified Louisiana teacher of record or certified teacher of record recognized through a state reciprocity agreement facilitating the instruction.

8. The end-of-course exam weight in a student's final grade determined by the LEA must be the same for a traditional course and a credit recovery course. Students who have previously passed the end-of-course exam, but have failed the course, may choose to retain the previous end-of-course exam score in lieu of participating in an additional administration of the exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2352 (November 2007), amended LR 38:3134 (December 2012), LR 39:2216 (August 2013), LR 39:3260 (December 2013), LR 46:

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 earning and family budget? No

5. Will the proposed Rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? 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 noon, June 9, 2020, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Diploma Integrity Individual Graduation Plans and Credit Recovery Courses and Units

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is unknown whether local education agencies (LEAs) that offer credit recovery programs will incur additional costs in order to ensure each course is taught by a certified teacher. LEAs are not required to develop credit recovery programs and the Department of Education does not have data on the number of courses that would be impacted by this requirement. To the extent a credit recovery course is currently taught by a paraprofessional, teacher aide, or other position, districts may incur additional costs associated with higher salary levels for certified staff. However, some districts may experience reduced costs if fewer students enroll in credit recovery courses due to the limit of two courses per year. In addition, high school counselors may experience increased workload to finalize individual graduation plans for each graduating senior, upload academic records data to the state system, and post-graduation dates, although this is indeterminable.

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 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
2005#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Carnegie Credit and Credit Flexibility
Health and Physical Education
(LAC 28:LXXIX.2102, 2109, 2319, and 2320)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CXV (Bulletin 741) and LAC 28: CLXIII (Bulletin 138). Proposed amendments will give nonpublic administrators increased flexibility in the awarding of Carnegie credit, regarding health and physical education, to students enrolled in nonpublic schools.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 21. Curriculum and Instruction

Subchapter A. General

§2102. Carnegie Credit and Credit Flexibility

A. Schools may permit students to earn Carnegie credit as middle school students in all courses except physical education.

B. - F.1. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1444 (June 2013), amended LR 40:276 (February 2014), LR 40:1682 (September 2014), LR 41:1268 (July 2015), LR 46:

Subchapter C. Secondary Schools

§2109. High School Graduation Requirements

A. - D.6.j. …

7. physical education—1 1/2 units in accordance with §2319.A of this Part;

8. health education—1/2 unit;

9. electives—3 units;

10. total—24 units.

E. - F.3.b. …

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 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:1064 (July 2016), LR 43:1289 (July 2017), LR 45:38 (January 2019), LR 45:1456 (October 2019), LR 46:

Chapter 23. High School Program of Studies

§2319. Physical Education

A. One and one-half units of physical education will be required for graduation, including:

1. physical education I and II;

2. adapted physical education I and II for eligible special education students;

3. JROTC I, II, III, or IV; or

4.a. physical education I—1 unit; and

b. marching band, extracurricular sports, cheering, or dance team—1/2 unit.

B. Physical education course offerings are as follows.

Physical Education Courses	
Course Title(s)	**Units**
Adapted Health and Physical Education I, II, III, IV	1 each
Physical Education I, II, III, IV	1 each
Marching Band	1/2
* * *	

1. The required units of physical education in Subsection A of this Section must be earned in grades 9-12.

2. - 3. Repealed.

C. No more than four units of physical education are allowed for meeting high school graduation requirements.

D. In schools having approved Junior Reserve Officer Training Corps (JROTC) training, credits may, at the option of the local school board, be substituted for the required credits in physical education.

E. Marching band, cheering, extracurricular sports, and dance team may be substituted for the physical education II credit and must:

1. include a minimum of 100 minutes of physical activity per week; and

2. encourage the benefits of a physically active lifestyle.

3. Repealed.

F. Students will be exempted from the requirements in physical education for medical reasons only; however, the minimum number of credits required for graduation will remain 24.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, R.S. 17:22(6), 17:391.1-391.10, and 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 39:1448 (June 2013), LR 40:1685 (September 2014), LR 41:1268 (July 2015), LR 46:

§2320. Health Education

A. One-half unit of health education course offerings is required.

1. Health education will include instruction on dating violence awareness and prevention in accordance R.S. 17:81.

2. Cardiopulmonary resuscitation (CPR) will be taught.

a. Instruction must be provided for CPR and the use of an automated external defibrillator.

b. The instructional program must be nationally recognized and based on the most current national evidence-based emergency cardiovascular care guidelines.

c. Students are required to perform hands-on practice.

d. The instructor is not required to be CPR-certified.

e. Students trained in CPR are not required to obtain CPR certification.

f. The physical presence of an automated external defibrillator is not required.

B. JROTC I and II may be used to meet the health education requirement if the following requirements are met.

1. A minimum of 2000 minutes of instructional time must be devoted to health education in JROTC I and II. Students must take both JROTC I and II to meet the health education requirement.

2. All standards and GLEs for health must be covered in JROTC I and II.

3. JROTC I and II must include the instruction listed in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, and 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

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 earning and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? 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 noon, June 9, 2020, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Carnegie Credit and Credit Flexibility Health and Physical Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to the Department of Education (LDE) or local school districts due to the proposed policy revisions. The changes are necessary to provide clarity and establish best practices for valid course recognition.

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 may be costs associated with implementing the proposed rule to the extent nonpublic schools do not currently offer health education as a stand-alone course. Current graduation requirements are for students to complete two units of health and physical education. The proposed rule decouples health education, requiring one and one-half units of physical education and a one-half unit of health education for a combined total of two units. Nonpublic schools may incur costs to the extent they are required to hire additional staff to offer a stand-alone health education course. Proposed rule further retains instruction on CPR and adds additional components to health education in order to comply with existing state law (R.S. 17:81), including instruction on dating violence and instruction on automated external defibrillators.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent

Evan Brasseaux
Staff Director
Legislative Fiscal Office

2005#036

NOTICE OF INTENT

Board of Elementary and Secondary Education

Jump Start—Waiver Requests; Career Diploma; and Program Authorization
(LAC 28:CXV.345 and 2319 and CLXIII.201)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CXV (Bulletin 741) and LAC 28: CLXIII (Bulletin 138). Proposed amendments will:

- provided the Jump Start 1.0 course sequences for incoming freshmen through the 2020-2021 school year;
- provided the Jump Start 2.0 course sequences for incoming freshmen beginning in 2020-2021 school year and beyond;
- establish a Jump Start 2.0 Career Diploma CTE hardship waiver process for eligible students; and
- align regional teams for Jump Start programs with the federal Carl D. Perkins Career and Technical Education Act.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 3. Operation and Administration
§345. Requesting Waivers of BESE Policy

A. - C.1.a.iii. ...

2. Course requirement waivers:

a. the LDE may waive up to one Carnegie unit required for graduation in the following circumstances:

i. waivers for students who transfer to Louisiana from another state during their senior year, are on course to graduate in their previous state of residence, and are unable to schedule and complete the needed course; and

ii. waivers due to administrative errors;

b. beginning with the 2020-2021 incoming freshman class, the LDE may grant a Jump Start 2.0 career diploma CTE hardship waiver for applicable students:

i. waiver requests may be considered for seniors with extraordinary circumstances; and

ii. school systems must submit Jump Start 2.0 course waiver requests with proposed CTE course equivalents via the LDE Jump Start 2.0 course waiver request form, using the Secure ID; and

c. in each situation, the district must provide:

i. a letter of justification from the local superintendent; and

ii. a copy of the student's transcript.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:10.2(B)(5), 17:24.10(C)(1)(c), 17:151(B)(2), 17:192(B)(2), 17:274(D), and 17:416.2(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1264 (June 2005), amended LR 39:2198 (August 2013), LR 46:

Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula
§2319. The Career Diploma

A. - B.6.a. ...

C. Minimum Course Requirements

1. - 2.f.iv. ...

g. at least nine credits in the Jump Start course sequence, workplace experiences, and credentials;

i. Jump Start 1.0 course sequences will be available for incoming freshmen through 2020-2021; and

ii. Jump Start 2.0 course sequences will be available for incoming freshmen beginning in 2020-2021 and beyond;

2.h. - 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2484 (December 2017), LR 44:1868 (October 2018), LR 45:1747 (December 2019), LR 46:

Part CLXIII. Bulletin 138—Jump Start Program
Chapter 2. Jump Start Regional Teams and Program Authorization
§201. Jump Start Program Authorization

A. Regional teams for Jump Start programs that are aligned with the federal Carl D. Perkins Career and Technical Education Act must consist of:

A.1. - C. …

D. The LDE will collaborate with Louisiana Workforce Commission, the Board of Regents, and the Department of Economic Development to evaluate proposed regional CTE pathways and Jump Start regional team proposals. The evaluation process may include, but is not limited to, assessments of:

1. - 4. …

E. Following the evaluation of proposed regional CTE pathways and review of the Jump Start program proposal, the state superintendent of education will recommend that BESE approve an authorization period of five years for proposals receiving a favorable evaluation.

1. The recommendation may be for approval of all, some, or none of the proposed regional CTE pathways based upon the evaluation process described in this Section.

F. - I.12. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:183.2, and 17:2930.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:1326 (July 2014), amended LR 46:

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 earning and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? 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 noon, June 9, 2020, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Jump Start—Waiver Requests; Career Diploma; and Program Authorization

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be costs to local school districts associated with providing additional classes to the extent schools offer both Jump Start 1.0 and 2.0 course sequences in the 2020-2021 school year, although this is likely to be minimal. However, if the course sequences are substantially similar, there would be no additional costs. The changes are necessary to provide clarity for Jump Start courses and establish best practices for valid course recognition.

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 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
2005#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program
(LAC 28:VI.107 and 315)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

This rulemaking adds the applicable interest rates for the START Saving Program for the 2019 calendar year. It also amends the definition of Qualified Higher Education Expenses to align Louisiana START Saving Program Rules with Internal Revenue Code Section 529, as amended by the Setting Every Community Up for Retirement Enhancement (SECURE) Act. (ST20189NI)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings
Chapter 1. General Provisions
§107. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Person—a human being or a juridical entity.

Qualified Education Loan—any indebtedness incurred by the taxpayer solely to pay qualified higher education expenses:

a. which are incurred on behalf of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred;

b. which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred; and

c. which are attributable to education furnished during a period during which the recipient was an eligible student.

Qualified Higher Education Expenses—

a. tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution; and

b. room and board; and

c. expenses for special needs services in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance; and

d. for the calendar years 2009 and 2010 only, expenses paid or incurred for the purchase of any computer technology or equipment or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature;

e. for calendar year 2015 and thereafter, expenses for the purchase of computer or peripheral equipment, computer software, or Internet access and related services, if such equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature.

f. for calendar year 2019 and thereafter, expenses for fees, books, supplies, and equipment required for the participation of the designated beneficiary in an apprenticeship program which is registered and certified with the United State Secretary of Labor under section 1 of the National Apprenticeship Act.

g. for calendar year 2019 and thereafter, a maximum of $10,000 per individual for the payment of principal and/or interest on a qualified education loan of the designated beneficiary or a sibling of the designated beneficiary.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1491 (August 2009), LR 38:3162 (December 2012), LR 42:1071 (July 2016), LR 44:1877 (October 2018), LR 46:

Chapter 3. Education Savings Account
§315. Miscellaneous Provisions

A. - B.40. …

41. For the year ending December 31, 2019, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.19 percent.

42. For the year ending December 31, 2019, the Savings Enhancement Fund earned an interest rate of 2.27 percent.

C. - S.2. …

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016), LR 43:1731 (September 2017), LR 44:1888 (October 2018), LR 45:1177 (September 2019), LR 46:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG20189NI) until 4:30 p.m., June 10, 2020, by email to LOSFA.Comments@la.gov or to Sujuan

Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: START Saving Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any costs or savings to state or local governmental units.

The proposed rule changes codify the actual earnings realized on Student Tuition Assistance and Revenue Trust (START) Saving Program accounts that are invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements for the 2019 calendar year and makes technical changes to align Louisiana START Saving Program Rules with Internal Revenue Code Section 529, as amended by the Setting Every Community Up for Retirement Enhancement (SECURE) Act.

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 will increase the earnings of START account holders by providing additional interest earnings. The proposed rule changes adopt interest rates for deposits and earnings enhancements for the year ending December 31, 2019 as a result of START account holders earning a higher interest rate than in the previous year. As determined by the State Treasurer, the interest rate earned for the 2019 calendar year by the Louisiana Education Tuition and Savings Fund was 2.19%, and by the Savings Enhancements Fund was 2.27%. These additional investment earnings are the property of the account owners.

Additionally, account holders will benefit from a new definition of “Qualified Education Loan” which adds payments for certain education loans and certain expenses incurred for participation in an approved apprenticeship program for calendar year 2019 and beyond as qualified higher education expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition and employment.

Robin Rhea Lively
Senior Attorney
2005#021

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Cross Lake and Cross Bayou Stream Descriptions
(LAC 33:IX.1123) (WQ106)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123, Table 3 (WQ106).

The proposed Rule will include a revision to the stream descriptions to include tributaries for Cross Bayou and Cross Lake, Subsegment Codes 100309 and 100310, in Table 3 of LAC 33:IX.1123.

The rulemaking is necessary so that tributaries in the Louisiana portion of the Cross Lake watershed have the "drinking water supply" designation applied. Cross Lake is the City of Shreveport's drinking water source. Cross Lake is fed by several very small tributaries within its 256 square mile watershed area. Cross Lake essentially does not have any constant flowing sources into its watershed, so the Lake relies almost exclusively upon rainfall events for replenishment. During prolonged dry weather conditions, it is not unusual for there to be virtually no natural flow into the lake from its tributaries. Under the circumstances described here, contaminants discharged into any of Cross Lake's tributaries can potentially have a direct and disproportionally significant impact on the lake, in some cases virtually no different from a direct discharge to the lake itself. Cross Lake and Cross Bayou are designated as "drinking water supply" in Table 3 of LAC 33:IX:1123. LAC 33:IX.111 l(A) states that the drinking water supply designation does not apply to a designated water body's tributaries "unless so specified". Because tributaries are not specified in the stream descriptions for Cross Lake and Cross Bayou, the drinking water supply designation does not currently apply to tributaries in those subsegments. The basis and rationale for this Rule are to ensure the proper protection of the City of Shreveport's drinking water supply from Cross Lake. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 1. Water Pollution Control
Chapter 11. Surface Water Quality Standards
§1123. Numerical Criteria and Designated Uses

A. - E. …

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish and Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO4	DO	pH	BAC	°C	TDS
* * *									
Red River Basin (10)									
* * *									
100309	Cross Bayou—From Texas state line to Cross Lake; includes tributaries	A B C D F	75	25	5.0	6.0-8.5	1	32	150
100310	Cross Lake; includes tributaries	A B C D F	75	25	5.0	6.0-8.5	1	32	150
* * *									

ENDNOTES [1]. - [25]. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010), amended by the Office of the Secretary, Legal Division, LR 41:2603 (December 2015), LR 42:737 (May 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1178 (September 2019), LR 46:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:965.2 - 965.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ106. Such comments must be received no later than July 2, 2020, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ106. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on June 25, 2020, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Legal Affairs and Criminal Investigations Division—Cross Lake and Cross Bayou Stream Descriptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on expenditures of the Department of Environmental Quality as a result of the proposed rule change revising the stream descriptions to include tributaries for Cross Bayou and Cross Lake in Shreveport, LA.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated increase or decrease in revenues anticipated from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups from the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule.

Herman Robinson	Evan Brasseaux
General Counsel	Staff Director
2005#037	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Embalmers and Funeral Directors

Embalmers and Funeral Directors
(LAC 46:XXXVII.701, 905, 1701, 1901, 1902, and 2001)

Notice is hereby given in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:840 (A) (1), that the Board of Embalmers and Funeral Directors proposes to amend LAC 46:XXXVII.Chapter 7 to facilitate the renewal process in accordance with R.S. 37:844, Chapter 9 to add language regarding the internship fee, Chapter 17 to correct an error of reference, Chapter 19 to restructure language with regard to heirship, and Chapter 20 to remove fees that are not statutorily allowed.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXVII. Embalmers and Funeral Directors
Chapter 7. License
§701. Renewal and Reinstatement

A. Application for renewal of a funeral director or an embalmer and funeral director license and an establishment license that must also include the annual report of prepaid funeral services or merchandise may be submitted to the board beginning October 1 and ending on December 31 of each year.

B. A license shall be considered lapsed upon the fifth day following the delivery date of a delinquency notice as verified by the tracking receipt. Should the delinquency notice be determined, for any reason, as undelivered and/or undeliverable by review of the tracking receipt, then January 31 shall be the final deadline for a delinquent license to be renewed to avoid a lapse of the license. When an establishment license payment has lapsed, no license will be reinstated by the board without the submission of a new establishment application, application fee, and the completion of the required inspections. When a funeral director or an embalmer and funeral director or an establishment license payment has lapsed, no license will be reinstated by the board, without the submission of a completed funeral director or an embalmer and funeral director license application, application fee and the current year renewal fee; Additionally, should a funeral director or an embalmer and funeral director license lapse for more than one year, proof of having successfully passed the Louisiana Laws and Regulations examination shall be required.

C. Application for renewal of a crematory retort operator or crematory license may be submitted to the board beginning February 15 and ending on May 15 of each year.

D. A license shall be considered lapsed upon the fifth day following the delivery date of a delinquency notice as verified by the tracking receipt. Should the delinquency notice be determined, for any reason, as undelivered and/or undeliverable by review of the tracking receipt, then June 15 shall be the final deadline for a delinquent license to be renewed to avoid a lapse of the license. When a crematory retort operator license payment has lapsed~~,~~ no license will be reinstated by the board, without the submission of a completed retort operator license application, application fee, and the current year renewal fee.

E. - J. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, LR 4:227 (June 1978), LR 5:279 (September 1979), LR 11:687 (July 1985), LR 13:436 (August 1987), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:2820 (December 2004), LR 34:2399 (November 2008), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 43:1536 (August 2017), LR 46:

Chapter 9. Internship
§905. Application; Fee

A. Each intern shall make application to the board on prescribed forms, accompanied by a fee as established by the board, which is non-refundable, and if found acceptable shall be registered as such and issued an identification number.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2824 (December 2004), LR 42:405 (March 2016), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 46:

Chapter 17. Prepaid Funeral Services or Merchandise
§1701. Reports on Prepaid Funeral Services or Merchandise

A. The report required by R.S. 37:865(D) from licensed funeral establishments engaged in the selling of prepaid funeral services or merchandise is necessary only in those instances where funds have actually been paid to or received by a licensed funeral establishment for such services or merchandise. The purpose of requiring such report is to protect purchasers of prepaid funeral services or merchandise by insuring that funds, paid by a purchaser to a licensed funeral establishment, are utilized solely for his exclusive use and benefit. Prearrangements of funerals by licensed funeral establishments, which are unfunded, are not within the scope of R.S. 37:865(D) and, accordingly, no report is required in these instances.

B. The report shall be in such form and contain such information as is prescribed by R.S. 37:865(D) and shall be filed by each licensed funeral establishment engaged in the selling of prepaid funeral services or merchandise no later than December 31 of each year, and shall cover the period

from October 1 of the previous year to and including September 30 of the year in which the report is due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:861.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, LR 8:188 (April 1982), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2827 (December 2004), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 46:

Chapter 19. Heirship Clause

§1901. Survivor's Clause

A. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2827 (December 2004), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 46:

§1902. Heirship Clause

A. An heir or heirs, upon the death of the proprietor of the principal share-holder of a funeral establishment shall apply for an interim ownership change for the establishment. An ownership change (interim) must be applied for within 30 days after death of the principal shareholder by submitting to the secretary of the board an ownership change application and fee. Said interim ownership change may be issued for a period not to exceed 12 months following approval of the ownership change application. Should the ownership change not be finalized and completed upon the expiration of the 12-month period, another ownership change application shall be submitted for an extension of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2827 (December 2004), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 46:

Chapter 20. Fees

§2001. Fees

A. The board shall require payment of fees hereunder as follows:

1. a fee of $250 from each person applying for a funeral director license;

2. a fee of $250 from each person applying for an embalmer and funeral director license;

3. a fee of $250 from each person applying for a crematory retort operator license;

4. a fee of $80 for the annual renewal of each of the licenses listed in Paragraphs 1, 2, and 3 of this Section;

5. a fee of $1,000 for each funeral establishment applying for a license to operate within this state;

6. a fee of $1,000 for each crematory applying for a license to operate within this state;

7. a fee of $700 for the annual renewal of each of the licenses listed in Paragraphs 5 and 6 of this Section;

8. a fee of $500 for each inspection or re-inspection of a funeral establishment applying for an initial license to operate within this state or as a result of a location, or an ownership change;

9. a fee of $500 for each inspection or re-inspection of a crematory applying for a license to operate within this state or as a result of a location, or an ownership change;

10. a fee of $100 from each person applying for an internship;

11. a fee of $100 from each person applying for a duplicate certificate;

12. a fee of $100 from each person applying for a temporary license within this state;

13. - 14. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and 37:845.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2828 (December 2004), amended LR 42:405 (March 2016), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 43:1537 (August 2017), LR 46:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Professional and Occupations Standards for Embalmers and Funeral Directors should not have any known or foreseeable impact on any family as defined by R.S. 49:972 (D) or on family formation, stability and autonomy. Specifically, there should be no known or forseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;

4. a family's earnings and budget;

5. the behavior and personal responsibility of children; or

6. the family's ability or that of the local government to perform the function as contained in the proposed rule.

Poverty Impact Statement

This proposed rule should not have any known or forseeable impact on any child, individual or family as defined by R.S. 49:973 (B). In particular , there should be no known forseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rules does not impact or affect a provider. "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed Rule has no effect or impact on a provider in regard to:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the provider to provide the same level of service;

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit comments or a written request to conduct a public hearing by U.S. mail, email or fax to the Louisiana State Board of Embalmers and Funeral Directors ATTN: Kim W. Michel; 3500 N. Causeway Blvd., Suite 1232, Metairie, LA 70002; however, such comment or request must be received no later than 4:30 p.m. on June 9, 2020.

Public Hearing

If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LSBEFD will conduct a public hearing at 10:00 a.m. on June 29, 2020 in Suite 1232 of the Executive Towers Building, which is located at 3500 N. Causeway Blvd., Suite 1232, Metairie, LA 70002. To confirm whether or not a public hearing will be held, interested persons should first call Kim W. Michel at (504) 838-5109 after May 8, 2020. 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, free parking is available to the public in the lot by the Executive Towers building.

Kim W. Michel
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Embalmers and Funeral Directors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time expense of $1,000 in FY 20 for the Board of Embalmers and Funeral Directors ("Board") to publish the notice of intent and final rule publication in the Louisiana Register. There are no other additional costs or savings for other state or local governmental units. The proposed rule changes make the application fee for internship applications non-refundable; provide a path for heirs of a funeral establishment owner to assume control of the firm in the event of death; repeal outdated, uncollected fees; and make technical changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are not anticipated to affect revenue collections for state or local governmental units. The fees being repealed for registration of business offices ($400) and approval of continuing education courses ($100) will not affect revenue collections, as the Board has not been collecting these fees because they do not have the statutory authority to do so. The heirship clause is not anticipated to affect revenue collections, as heirs of a funeral establishment seeking to assume control ownership of the firm in the event of death on an interim ownership change would have to remit the one-time $500 inspection fee and and $1,000 fee for a license to operate. Lastly, making the $100 internship application fee non-refundable is not anticipated to significantly affect revenue collections for the Board, as applicants rarely seek refunds.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will benefit heirs of a deceased funeral establishment owner, as they provide a pathway for them to operate a funeral establishment after the owner's passing. Such heirs would have to seek an interim ownership change and remit the one-time $500 inspection fee and and $1,000 fee for a license to operate, but may realize economic benefits associated with operating the funeral establishment. Lastly, making the $100 internship application fee non-refundable is not anticipated to affect persons seeking internships, as applicants rarely seek refunds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to affect competition or employment.

Kim W. Michel
Executive Director
2005#054

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Office of Public Health

Certification of Laboratories Performing
Drinking Water Analyses
(LAC 48:V.Chapter 80)

Under the authority of R.S. 36:254(B)(7) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health, Office of Public Health (LDH-OPH), intends to amend Chapter 80 (Accreditation of Laboratories Performing Drinking Water Analyses) of Subpart 28 (Drinking Water Laboratories) of Part V (Preventive Health Services) of Title 48 (Public Health–General) of the *Louisiana Administrative Code* (LAC). The proposed amendments are necessary to withdraw the LDH-OPH Laboratory Certification Program from The NELAC Institute (TNI), the National Environmental Laboratory Accreditation Program (NELAP).

Through membership with the above entity, the LDH-OPH Laboratory Certification Program is required to offer certification to any laboratory that applies, regardless of location or size.

The limited resources of the LDH-OPH Laboratory Certification Program are being drained by large out-of-state laboratories that are taking advantage of low program fees. None of these laboratories are analyzing drinking water compliance samples for the State. One out-of-state assessment was performed in 2016, two in 2017, three in 2018, and three are scheduled for 2019. The out-of-state laboratories which have sought TNI NELAP accreditation from LDH-OPH have only covered the cost of travel for LDH-OPH laboratory certification personnel; however, the LDH-OPH Laboratory Certification Program's resources including preparation time for the out-of-state assessment and the time spent at an out-of-state laboratory are essentially free.

Reciprocal, or secondary, certification (based on recognition of a TNI NELAP accreditation body) does not require an onsite assessment, and will still be offered to all out-of-state laboratories, but primary certification will be reserved for in-state laboratories.

This withdrawal will realign the Laboratory Certification Program with the departmental mission of protecting and promoting the health for all citizens of the state of Louisiana. Furthermore, it will allow the limited resources of the program to be focused on laboratories conducting analyses in the State and for the State.

Please note that Subchapter D of the proposed Rule has been re-numbered so that every Section therein is planned to be identified by an odd number. For example, Section 8064 is planned to be repealed; however, the text of Section 8064 within the existing 2012 Rule is now planned to be amended and moved into Section 8065 in the proposed Rule. Likewise, the text in the existing Section number below is now planned to be amended and moved into the very next Section number, as follows:

Existing Section Number	Action Proposed
8064	Repeal
Text within:	**Amended and moved into:**
8064	8065
8065	8067
8067	8069
8069	8071
8071	8073
8073	8075
8075	8077
8077	8079
8079	8081
8081	8083 (new Section created)

For the reasons set forth above, the following amendments are hereby proposed to be adopted.

Title 48

PUBLIC HEALTH−GENERAL

Part V. Preventive Health Services

Subpart 28. Drinking Water Laboratories

Chapter 80. Certification of Laboratories Performing Drinking Water Analyses

Subchapter A. General Provisions

§8001. Scope and Authority

A. This Chapter, adopted pursuant to R.S. 36:254(B)(7), the federal Safe Drinking Water Act (42 USC 300f et seq.) and its implementing regulations (40 CFR Parts 141 and 143), and the State Sanitary Code (LAC 51) constitutes the Department of Health, Office of Public Health (hereinafter referred to as "department") regulations governing the certification of laboratories performing drinking water analyses required to be performed by regulations or orders issued pursuant to those acts and regulations. The authority of the department to grant, maintain or revoke a laboratory's State Certification shall not be delegated to an outside person or body. Portions of the certification process may be contracted out by the department but the authority to grant, maintain, suspend or revoke certification remains with the department. This Chapter establishes the procedures for obtaining and maintaining certification, and the criteria and procedures laboratories shall follow in analyzing drinking water samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3215 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8003. Construction

A. These rules shall be liberally construed to permit the department to discharge its statutory functions, and to effectuate the purposes of the laboratory certification program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8005. Purpose of the Regulations

A. This Chapter is promulgated for the following purposes:

1. to establish a certification program for laboratories performing analyses of drinking water samples;

2. to establish the administrative procedures to be followed by laboratories seeking certification and by laboratories maintaining certification;

3. to establish the categories and parameters for which laboratories may be certified;

4. to require that the certification status of a laboratory be contingent upon that laboratory's continued compliance with the standards set forth herein; and

5. to establish the enforcement procedures the department shall follow to ensure that all certified laboratories or laboratories seeking certification are in compliance with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8007. Certification Program Requirements

A. The laboratory certification program is voluntary and open to any laboratory to apply for certification. However any laboratory wishing to analyze drinking water samples for compliance with regulations adopted or orders issued pursuant to the Safe Drinking Water Act, or R.S. 36:254(B)(7), R.S. 36:254(B)(8), R.S.40:4(A)(8), R.S.40:5(6), R.S.40:5.9, or Part XII of the department's Sanitary Code (LAC 51) shall follow the procedures set forth herein in order to obtain and maintain certification.

B. Certified laboratories and laboratories seeking certification shall analyze all drinking water samples in accordance with the procedures and methods required by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8009. Incorporation by Reference

A. The department hereby adopts and incorporates into these regulations:

1. the "National Primary Drinking Water Regulations," 40 CFR 141, July 1, 2019 edition;

2. the "National Secondary Drinking Water Regulations," 40 CFR 143, July 1, 2019 edition; and

3. the Manual for the Certification of Laboratories Analyzing Drinking Water, Criteria and Procedures Quality

Assurance Fifth Edition (EPA 815-R-05-04) January 2005 including Supplement 1(EPA 815-F-08-006), June 2008, both published by the United States Environmental Protection Agency (USEPA or EPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8011. Program Information

A. Unless otherwise specified, any questions concerning the requirements of this program as detailed in this Chapter should be directed to:

Laboratory Certification Program
Department of Health
Office of Public Health
1209 Leesville Avenue Baton Rouge, LA 70802
225-219-5200
www.ldh.la.gov/lab

1. All requests for information and performance testing data shall be submitted to the entity above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

Subchapter B. Program Procedures and Requirements

§8015. Scope

A. This Subchapter establishes the following:

1. requirements of certification;
2. categories for which certification is available;
3. procedures for becoming a certified drinking water laboratory;
4. procedures for a certified drinking water laboratory to renew or modify its certification;
5. procedures for cancellation, suspension, and revocation of certification; and,
6. fees for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8017. Requirements of Certification

A. All water sample analyses performed for the purpose of determining compliance with the chemical, physical, or radiological requirements of the State's primary and secondary drinking water regulations, or when required by order issued by the department pursuant to the authority of the federal Safe Drinking Water Act, or any other regulations adopted pursuant to those acts, shall be performed in laboratories certified for this purpose pursuant to this Chapter. Analyses performed in laboratories not so certified shall not be accepted by the department as being in compliance with the requirements, regulations or orders of the federal Safe Drinking Water Act.

B. To be clear, the requirements of LAC 48:V.8009.A.1 and 8009.A.2 shall apply to all laboratories regardless of the number of categories specified in §8019 for which the laboratory is seeking certification. The requirements of Paragraphs 8019.A.1, 8019.A.2 and 8019.A.3 shall apply dependent upon the particular category or categories for which the laboratory is seeking certification.

C. Primary certification shall only be granted to laboratories located in the state of Louisiana. The department shall, in accord with the provisions of this Section, grant reciprocity to a laboratory located outside of the state of Louisiana if the laboratory requesting certification also meets each of the following requirements:

1. the laboratory is accredited by a The NELAC Institute (TNI), the National Environmental Laboratory Accreditation Program (NELAP) recognized primary accreditation body;
2. the laboratory submits an acceptable application for certification to the State; and
3. …

D. The department shall consider only the current certification of accreditation issued by the TNI NELAP recognized primary accreditation body and shall grant reciprocal certification for the fields of testing, methods and analytes for which the laboratory holds primary TNI NELAP accreditation. The department will issue a Louisiana certificate within 30 calendar days of receipt of the laboratory's application if all the above reciprocity requirements are met by the laboratory. The department, does not require any additional proficiency testing, quality assurance, or on-site assessment requirements for fields of testing for which the laboratory holds primary TNI NELAP accreditation.

E. Only laboratories certified pursuant to these regulations may be called a state certified drinking water laboratory and no laboratory may adopt any name or make any oral or written statement intended or likely to mislead the public with the respect to its certification status.

F. Once a laboratory is certified, the period of certification shall extend to the end of the calendar year in which certification is received. For laboratories seeking to renew certification, the period of certification shall be one year beginning on January 1 and shall be considered to be ongoing if the appropriate fees are timely received by the department.

G. If there is a difference in the drinking water regulations of the USEPA and the regulations of the department, a laboratory must follow the more stringent requirement(s).

H. Applications shall be processed in the chronological order in which they have been received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3217 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8019. Categories for Certification

A. A laboratory may apply for certification in any one or more of the following certification categories and shall be certified in those fields of certification within the category for which it demonstrates acceptable performance on proficiency samples and meets all other requirements of this Chapter. The laboratory certificate shall specify the categories and the fields of certification within each category for which the laboratory is certified and shall be conspicuously displayed in the laboratory in a location visible to the public. In addition, the current laboratory

certificate specifying the certification categories, the fields of certification, and the expiration date of the certificate shall be posted on its publicly accessible website. The certificate must be removed and returned to the department if the laboratory's certification has been revoked. In addition, the laboratory shall post such revocation or suspension of the laboratory's certification on its publicly accessible website. The certificate does not have to be returned if it simply expired (reached the expiration date). The following are the certification categories available.

1. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3218 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8021. Application Procedures for Laboratories Located in Louisiana

A. The owner or director of a laboratory who wishes an in-state laboratory to be certified in any or all of the certification categories and fields of certification/parameters thereof, described in the federal Safe Drinking Water Act regulations or §8019 of this Chapter, shall apply for certification to the department in writing on forms provided by the department. Laboratories applying for certification may be fixed-base or mobile. The department shall determine what constitutes an individual fixed-base laboratory when noncontiguous laboratory facilities operate under the same ownership, technical directorship, and quality system as the parent laboratory. A separate certification is not required for a mobile laboratory that is owned by a certified fixed-base laboratory, operates under the same quality system as the fixed-based laboratory, performs a subset of the analyses for which the fixed-base laboratory is certified, and analyzes samples exclusively from within the state. Separate certification is required for a mobile laboratory that is owned by a fixed-base laboratory but operates under a different quality system or performs analyses for which the parent fixed-base laboratory is not certified.

B. ...

C. If the applicant submits a complete, signed application, the appropriate fee, proficiency data (if required), quality manual (if required), and the information submitted meets the minimum requirements of this Chapter for the category or categories for which certification is requested, the application shall be accepted. Acceptance of the application does not authorize the laboratory to perform water analyses regulated by this Chapter. The applicant shall be notified of the acceptance and shall be subject to an evaluation including but not limited to the following:

1. personnel;
2. proficiency testing;
3. on-site assessment; and
4. quality assurance/quality control procedures.

D. Neither certified nor interim certified status will be granted to any laboratory which has not met the performance criteria specified in any federal Safe Drinking Water Act regulations or, for those chemicals or other analyses wherein performance criteria may not be specified under the federal Safe Drinking Water regulations, by the performance criteria specified under a written policy of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3218 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8023. Application Procedures for Laboratories Not Located in Louisiana

A. Laboratories located outside of Louisiana, possessing TNI NELAP accreditation from an approved NELAP accreditation body, and desiring to perform water analyses in any or all of the categories described in §8019 for public water systems (PWSs) and for other potable water supplies located in Louisiana, or as required by the federal Safe Drinking Water Act regulations or Part XII of the Louisiana Sanitary Code (LAC 51), shall apply for reciprocal certification in accordance with the procedures set forth in §8017 and §8021 and shall submit the standard fee amount(s) specified under §8027 for the category or categories being applied for.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3218 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8025. Renewal of Certification

A. Applications for renewals of certification will be accepted by the department from October 15 through December 1 of each year and shall be submitted at least 30 calendar days prior to the expiration date of the current certificate on forms provided by the department. The appropriate application fee must accompany the application in accordance with §8027.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3219 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8027. Fees

A. Owners of laboratories applying for certification or renewal of certification shall submit the appropriate fee obtained from the annual fee schedule below along with the required application materials. Fees are nonrefundable.

Annual Laboratory Certification Fee Schedule	
Chemistry Category/Categories	**Fee**
Inorganic	$750
Organic	$800
Both Inorganic and Organic	$1000
Radiological Testing	$800

B. The annual fees shall not be prorated and shall apply in full to any portion of the calendar year which remains prior to the annual renewal date.

C. This Section is also applicable to laboratories approved for interim certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7) [the same fee schedule amounts initially adopted in LR 15:968 (November 20, 1989) under this statute's authority].

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3219 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8029. Required Laboratory Personnel Policies

A. Every certified laboratory and laboratories seeking certification shall have sufficient properly qualified personnel commensurate with the workload and types of tests or analyses required to be performed for the parameters for which the laboratory is certified, or is seeking certification, pursuant to the requirements of this Chapter; and Chapters IV and VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

1. General requirements for technical staff. The management of a certified laboratory or laboratory seeking certification shall ensure the competency of all technical staff employed by the laboratory.

a. An environmental laboratory certified under this Chapter or seeking certification under this Chapter shall have sufficient personnel with the necessary education, training, technical knowledge, and experience for their assigned functions.

b. Each technical staff member of the environmental laboratory certified under this Chapter or seeking certification under this Chapter shall be responsible for complying with all quality assurance/quality control requirements that pertain to their organization/technical function.

A.1.c. - B.3. …

C. Data Integrity Training. Data integrity training shall be provided as a formal part of new employee orientation and shall also be provided on an annual basis for all current employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3219 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8031. Proficiency Testing

A. At the time each laboratory applies for certification, it shall notify the department which field(s) of testing it chooses to become certified for and shall participate in the appropriate proficiency test (PT) studies. Except when determined by the department that an appropriate PT is not readily available, all certified laboratories or laboratories seeking certification shall participate in an approved proficiency testing program covering all tests, analytes and analytical methods as made available within the category and categories in which the laboratory is certified or seeks certification. The laboratory shall purchase PT studies for the parameters for which certification is requested. A laboratory seeking state of Louisiana drinking water laboratory certification only shall participate in proficiency studies at the frequency that meet the requirements of federal Safe Drinking Water Act regulations (40 CFR 141 and 40 CFR 143).

B. All PT records shall be retained for a minimum of 10 years and available for assessment by the department.

C. To be certified initially and to maintain certification the laboratory shall participate in one PT study, where available, per year for each PT field of testing for which it seeks or wants to maintain certification. For a laboratory seeking to obtain certification, the most recent three rounds attempted shall have occurred within 18 months of the laboratory's application date for certification with the analysis date of the most recent PT sample having been no more than six months prior to the application date for certification. The department will complete the assessment of the final evaluation report for PT studies within 60 days of receipt of each study report. The department shall suspend the certification of a laboratory for a field of proficiency testing pursuant to the conditions specified in Chapter III of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3220 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8033. On-Site Assessment

A. The department will perform an initial on-site assessment of an environmental laboratory seeking certification, except as provided in §8017, prior to granting certification, and reassessments at intervals of three years and at such other times as the department deems necessary to determine continued compliance to this rule. All assessments performed by the department shall be pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. …

C. The laboratory shall ensure that records including its quality manual, analytical methods, standard operating procedures, quality assurance/quality control data, proficiency testing data, and all records needed to verify compliance to the federal Safe Drinking Water Act (42 USC 300f et seq.) and its implementing regulations (40 CFR Parts 141 and 143); the Louisiana State Sanitary Code (LAC 51) and this rule are available for review during the on-site assessment. The laboratory shall allow the department's authorized personnel to examine records, observe laboratory procedures, facilities, equipment and to interview staff during the on-site assessment.

D. - E. …

F. In addition to on-site assessments, the department shall perform other surveillance activities to monitor certified laboratories' continued compliance to the provisions of this Chapter throughout the period of certification. Annually, the department shall review among other things, proficiency testing, internal audits, corrective action reports and any other certification-related laboratory records the department deems appropriate to establish continued compliance to the provisions of this Chapter.

G. Nothing in this Section shall be construed as requiring the department to reassess a laboratory prior to taking a regulatory or administrative action affecting the status of the laboratory's certification. Nothing in this Section shall be construed as limiting in anyway the department's ability to revoke or otherwise limit a laboratory's certification upon the identification of such deficiencies as to warrant such action.

H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3220 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8035. Issuance and Display of Certificate and Use of Certification

A. The department will issue a certificate to each laboratory meeting the requirements of this Chapter indicating that the laboratory is certified by the department. The numbered certificate will be signed by a laboratory director, or assistant laboratory director, of the department's Laboratory Services Section and the designated laboratory certification staff personnel and will be considered an official document. It will be transmitted as a sealed and dated (effective date and expiration date) document and contain the certification logo. Addenda or attachments to the certificate shall be considered official documents. Information on the addenda or attachments shall include the matrix, fields of certification, methods, analyte/analyte group and technologies.

1. The certified laboratory shall display their most recent certificate in a prominent place in the laboratory, visible to the public. The certificate shall include the certification status of the laboratory and a list all fields of testing for which the laboratory is certified.

B. A certified laboratory must not use its certificate, certification status and/or certification logo to imply, either orally or in any literature, endorsement of the laboratory by the state of Louisiana or the department. A certified laboratory must not make any inaccurate statements concerning their fields of certification and certification status.

C. A certified laboratory's certification number or other identifier shall be included when the certification body's name is used on general literature such as catalogs, advertising, business solicitations, proposals, quotations, laboratory analytical reports or other material.

D. The laboratory must distinguish between proposed testing for which the laboratory is certified and the proposed testing for which the laboratory is not certified.

E. The laboratory must return to the department any revoked certification certificate(s) and must discontinue use of all catalogs, advertising, business solicitations, proposals, quotations, laboratory analytical results or other materials that contain reference to their past certification status and/or display their past certification logo.

F. The department shall take suitable actions including, but not limited to, legal action when incorrect references to the certification body's certification, misleading use of the laboratory's certification status and/or unauthorized use of the certification logo is found in catalogs, advertisements, business solicitations, proposals, quotations, laboratory analytical reports or other materials. All reports of questionable laboratory practices must be reported to the department's laboratory director, or assistant laboratory director, and to the department's laboratory certification program manager. The department's laboratory certification program manager shall investigate the merits of the report and forward the findings to the department's laboratory director, or assistant laboratory director. If it is determined that a formal investigation is needed, the department's laboratory director, or assistant laboratory director, shall contact the Bureau of Legal Services within the Department of Health (LDH) for guidance and assistance in the investigation. If the investigation determines that action is merited, the laboratory shall be issued a revocation order via certified mail revoking the laboratory's certification. All legal actions taken by the department shall proceed in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) and under the direction of LDH's Bureau of Legal Services. No laboratory's certification shall be revoked without the right to due process. The laboratory has a right to an administrative hearing thereon, if requested in writing within 20 days of receipt of the revocation order. Said hearing shall be held before an Administrative Law Judge and in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) All documents related to the investigation(s), including the final disposition, shall be retained by the department for 10 years from the date of such final disposition.

G. Certification may be transferred when the legal status or ownership of a certified laboratory changes without affecting its staff, equipment, and organization. The department may conduct an on-site assessment to verify the effects, if any, of such changes on laboratory performance.

H. The following conditions apply to the change in ownership and/or the change in location of a laboratory, as well as to a change in top management, key personnel, resources, or premises that is, or previously was, certified by the department under a previous owner and/or at a previous location.

1. In the event there are any changes in the name, location, ownership, top management, key personnel, main polices, resources or premises of a certified laboratory to which the provisions of this Chapter apply, written notice thereof shall be made within 30 days to the entity below.

Laboratory Certification Program
Laboratory Services
Department of Health,
Office of Public Health
1209 Leesville Avenue
Baton Rouge, LA 70802

2. …

3. A change in ownership and/or location will not necessarily require recertification or reapplication in any or all of the categories in which the laboratory is currently certified.

4. …

5. Any change in ownership shall assure historical traceability of the laboratory certification number(s).

6. For a change in ownership, the following additional conditions shall be in effect.

a. The previous owner (transferor) shall agree in writing, before the transfer of ownership takes place, to be accountable and liable for any analyses, data and reports generated up to the time of legal transfer of ownership.

b. …

c. All records and analyses performed pertaining to certification shall be kept for a minimum of 10 years and are subject to review and inspection by the department during this period without prior notification to the laboratory. This stipulation is applicable regardless of change in ownership, accountability or liability.

d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3221

(December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8037. Management System Establishment

A. The laboratory shall establish and maintain a management system pursuant to and meeting the required elements contained in Chapter III of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3222 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8039. Denial, Suspension, Revocation and Voluntary Withdrawal of Certification

A. Denial of Certification. Denial means to refuse to certify in part or in total a laboratory applying for initial certification or resubmission of initial application.

1. - 1.a.…

b. failure of laboratory staff to meet the personnel qualifications as required by the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. These qualifications include, but are not limited to, education, training and experience requirements;

c. failure to successfully analyze and report PT samples as required in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water;

d. failure to attest that analyses are performed by methodologies as required in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters;

e. failure to implement a quality system as defined in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water;

f. - i. …

j. misrepresentation of any material fact pertinent to receiving or maintaining certification; or

k. denial of entry during normal business hours for an on-site assessment as mentioned under §8033.B of this Chapter.

2. A laboratory shall have two opportunities to correct the areas of deficiencies which results in a denial of certification.

3. If the laboratory is not successful in correcting the deficiencies as required by §8033 of this Chapter, the laboratory must wait 6 months before again reapplying for certification.

4. Upon reapplication, the laboratory shall be responsible for all or part of the fees incurred as part of the initial application for certification.

5. No laboratory's certification will be denied without the right to due process. The laboratory has a right to an administrative hearing thereon, if requested in writing within 20 days of receipt of the denial letter. Said administrative hearing shall be held before an Administrative Law Judge and in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

B. Suspension of Certification. Suspension means the temporary removal of a laboratory's certification for a defined period of time which shall not exceed 6 months. The purpose of suspension is to allow a laboratory time to correct deficiencies or areas of non-compliance with this Chapter.

1. A laboratory's certification may be suspended in part or in total. The laboratory shall retain those areas of certification where it continues to meet the requirements of this Chapter.

2. - 2.a.…

b. failure to successfully complete PT studies and maintain a history of at least two successful PT studies for each affected certified field of testing out of the most recent three PT studies;

c. failure to notify the certification body of any changes in key certification criteria, as set forth in §8029 of this Chapter;

d. …

e. failure of the laboratory to employ staff who meet the personnel qualifications including, but not limited to, education, training and experience as required by this Chapter.

3. A laboratory under suspension will not have to reapply for certification if the cause/causes for suspension are corrected within 6 months. The laboratory's suspended certification status will change to certified when the laboratory complies with this Chapter.

4. …

a. cannot continue to analyze samples for the affected fields of testing for which it holds certification; and

b. …

5. If the laboratory is unable to correct the reason for the suspension, the laboratory's certification shall be revoked in total or in part within 6 months after the effective date of the suspension.

6. No laboratory's certification will be suspended without the right to due process. The laboratory has a right to an administrative hearing thereon, if requested in writing within 20 days of receipt of the suspension order. Said administrative hearing shall be held before an Administrative Law Judge and in accordance with the Louisiana Administrative Procedure Act (R.S.49:950 et seq.)

C. Revocation of Certification. Revocation means partial or total withdrawal of a laboratory's certification by the department.

1. The department’s Laboratory Services Section shall revoke a laboratory's certification, in part or in total, for failure to correct the deficiencies after certification had been suspended. The laboratory shall retain those areas of certification where it continues to meet the requirements of this Chapter.

2. - a. …

b. failure to correctly analyze a parameter(s) in three consecutive PT studies. Should this occur, the laboratory's certification shall be revoked for each affected certified field of testing(s), method(s) and analyte(s).

3. - a. …

b. failure to participate in the PT program as required by §8031 of this Chapter;

c. submittal of PT sample results generated by another laboratory as its own;

d. misrepresentation of any material fact pertinent to receiving or maintaining certification;

e. denial of entry during normal business hours for an on-site assessment as required by §8033 of this Chapter;

f. …

g. failure to remit the certification fees within the time limit as established by the department may be grounds for immediate revocation.

4. After correcting the reason/cause for revocation, the laboratory may reapply for certification no sooner than six months from the official date of revocation.

5. No laboratory's certification will be revoked without the right to due process. The laboratory has a right to an administrative hearing thereon, if requested in writing within 20 days of receipt of the revocation order. Said administrative hearing shall be held before an Administrative Law Judge and in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

D. Voluntary Withdrawal of Certification. If an environmental laboratory wishes to withdraw from the laboratory certification program, it must submit written notification to the department no later than 30 calendar days before the end of the certification year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3222 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8041. Interim Certification

A. If a laboratory completes all of the requirements for certification except that of an on-site assessment because the department is unable to schedule the assessment in a timely manner, the department may issue an interim certification. Interim certification is not available for first time certification of a laboratory or after revocation of certification. Interim certification will allow a laboratory to perform analyses and report results with the same status as a fully certified laboratory until the on-site assessment requirements have been completed. Interim certification status may not exceed 12 months. The interim certification status is a matter of public record and will be noted on the certificate of the laboratory.

B. Revocation of Interim Certification. Revocation of interim certification may be initiated for due cause in accord with the requirements of §8039 of this Chapter.

C. The department may approve a laboratory application to add an analyte or method to its scope of certification by performing a data review without an on-site assessment. An addition to the scope of certification via a data review of PT performance (if available), quality control performance, and written standard operating procedure is at the discretion of the department. An addition of a new technology or test method requiring specific equipment may require an on-site assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3223 (December 2012), amended by the Louisiana Department of Health, Office of Public Health, LR 46:

§8043. Ethics, Standards of Professional Conduct and Conflict of Interest

A. Professional standards apply to every employee of the department including laboratory assessors, whether a government employee or an employee of a third party organization conducting assessments under an agreement with the department or other certification body.

1. Department employees, including assessors that knowingly engage in unprofessional activity, may be liable for punitive actions as initiated by the department. Standards for professional conduct outlined herein are based upon 5 CFR 2635, January 1, 2019 edition, (Standards of Ethical Conduct for Employees of the Executive Branch) and will be followed in all laboratory certification related matters. Additionally, conformance with the Louisiana Code of Governmental Ethics, R.S. 42:1101 et seq., is required.

2. All employees including assessors representing the department shall:

a. have no interest at play other than that of the department during the entire certification process;

b. - h. …

i. not knowingly make unauthorized commitments or promises of any kind purporting to bind the department; and

j. …

3. It is the individual's responsibility to report to the department any personal issues or activities that constitute a conflict of interest before an assessment occurs. It is up to the department to determine if the reported issues and activities regarding a specific assessor constitute, or may be construed as, a conflict of interest. The department's laboratory director, or assistant laboratory director, shall contact the Bureau of Legal Services within the Department of Health (LDH) for guidance and assistance in deciding a conflict of interest case and the course of action the department should take.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3223 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

Subchapter C. Criteria and Procedures for Chemical Testing and Analysis

§8045. Scope

A. This Subchapter establishes the department's requirements which a certified laboratory or laboratory seeking certification shall continually meet and follow when performing chemical analyses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3224 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8047. Laboratory Facilities and Safety

A. All certified laboratories or laboratories seeking certification pursuant to this Subchapter shall have laboratory facilities and safety procedures that meet the requirements in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. - L. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3224 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8049. Specifications for Laboratory Equipment and Instrumentation

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall have on the premises and under the control of the technical manager, all of the equipment and instruments

necessary to analyze each parameter in which the laboratory is certified, or is seeking certification. All instruments shall be properly maintained and calibrated and such equipment and instruments including records shall meet the requirements in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3224 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8051. Measurement Traceability

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall meet the measurement traceability requirements specified in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3224 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8053. Sample Collection, Handling and Preservation

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall have procedures for sample collection, handling and preservation techniques that meet the requirements in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. Samples requiring preservation shall be preserved at the time of collection. A laboratory that has interim approval or certification shall accept only samples which are properly labeled, and for which there is reasonable assurance that they have been collected, preserved, processed, stored and transported in such a manner as to identity and stability of the sample with respect to the requested tests or analyses. If the identity/stability of the sample has not been assured, the laboratory report shall clearly state that the result may be invalid due to an unsatisfactory sample.

C. All samples requiring thermal preservation shall be considered acceptable if the arrival temperature of a representative sample container is within the method's specified range. Additional acceptance criteria are specified in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters and in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. The laboratory must measure and record the temperature of the sample when it arrives when temperature preservation is required by the method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3225 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8055. Methodology and Method Validation

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall use the test procedures specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters. Additionally, the laboratories shall comply with the requirements in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. …

C. Applicable SOPs shall be available in the laboratory at the analyst's work station.

D. The laboratory shall validate reference methods via the procedures specified in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

E. Prior to the acceptance and institution of any method, a satisfactory initial Demonstration of Capability (DOC) shall be performed by the laboratory pursuant to the requirements in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters. Documentation shall be maintained by the laboratory for the initial and any ongoing DOC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3225 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8057. Quality Assurance for Environmental Testing

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall have established quality control procedures pursuant to Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. The laboratory shall implement the essential quality control procedures in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3225 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8059. Records and Data Reporting

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall meet the requirements for reporting results pursuant to Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. - D. …

D.1. date of sampling, location [including name of utility and PWS identification (ID) number (#) if the water system is a PWS], sampling site within the water system, time of sampling, name, organization and phone number of the sampler, and analyses required;

D.2. - H. …

I. The original or true duplicate of the results of the test or analysis shall be sent promptly to the person who requested such tests or analysis. In addition, the results of compliance monitoring samples are to be sent to the Engineering Services Section of the department.

1. The results data shall be signed by the technical manager or a designee whose designation is in writing and whose name has been submitted to the department. Data and results submitted to the department shall be submitted electronically, maintained, and stored in writing in the format specified by the Engineering Services Section of the

department. When any sample result exceeds the maximum contaminant level (MCL), secondary MCL, or may cause a treatment technique requirement violation for any regulated contaminant listed in the federal Safe Drinking Water Act (42 USC 300f et seq.) and its implementing regulations (40 CFR Parts 141 and 143), a certified laboratory shall report the result to the supplier of water and the Engineering Services Section of the department as soon as possible but no later than the end of the next business day after the result was determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3226 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8061. General Laboratory Practices

A. Chemicals/Reagents. Chemicals and reagents used must meet the specifications in the referenced method. If not specified therein, then analytical reagent (AR) grade or American Chemical Society (ACS) grade chemicals or better shall be used for analyses in certified laboratories.

B. Reagent Water. The laboratory shall have a source of reagent water having a resistance value of at least 0.5 megohms-cm (conductivity less than 2.0 micromhos/cm) at 25ºC. High quality water meeting such specifications may be purchased from commercial suppliers. Quality of reagent water is best maintained by sealing it from the atmosphere. Quality checks to meet specifications above shall be made and documented at planned intervals based on use. This planned interval should not exceed daily. Individual analytical methods may specify additional requirements for the reagent water to be used. Reagent water for organic analysis must be free from interferences for the analytes being measured. It may be necessary to treat water with activated carbon to eliminate all interferences. If individual methods specify additional requirements for the reagent water to be used, these must be followed.

C. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3226 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8063. Management Systems General Requirements

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall establish, implement and maintain a management system. The laboratory's management system policies related to quality, including a quality policy statement, shall be defined in a quality assurance plan (however named). The quality assurance plan shall include all the requirements in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. The quality assurance plan shall be made available to all laboratory personnel.

B. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall establish and maintain a documented data integrity system. There are four elements within a data integrity system. These are:

1. - 4. …

C. The procedures of the data integrity system required under Subsection B of this Section shall be signed by top management.

D. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall maintain SOPs that accurately reflect all phases of current laboratory activities, such as assessing data integrity, corrective actions, handling customer complaints and all analytical methods. All quality control data and records required by this Section shall be retained by the laboratory for a minimum of 10 years and shall be made available for inspection by the department. Such retained data shall include, but shall not be limited to, the results of and raw data generated by PT analyses.

E. Control of Nonconforming Environmental Testing Work. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall meet the requirements for the control of nonconforming environmental testing pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

F. Laboratory Improvement, Corrective Action and Preventive Action. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall meet the requirements for improving the laboratory, and implementing corrective and preventive actions pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

G. Internal Audits. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall meet the requirements for establishing and conducting internal audits of laboratory activities pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3227 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

Subchapter D. Criteria and Procedures for Radiological/ Radiochemical Testing and Analysis

§8065. General
[Formerly §8064]

A. This Subchapter, in conjunction with other requirements contained in other portions of this Chapter, establishes the department's requirements to which a certified laboratory or laboratory seeking certification shall continually meet and follow when performing radiological/radiochemical analyses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3228 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8067. Laboratory Facilities and Safety
[Formerly §8065]

A. All certified laboratories or laboratories seeking certification pursuant to this Subchapter shall have laboratory facilities and safety procedures that meet the

requirements in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. The analysis of compliance samples shall be conducted in a laboratory where the security and integrity of the samples and the data can be maintained.

C. The laboratory facilities must be clean, have adequate temperature and humidity control, have adequate lighting at the bench top and must meet applicable Occupational Safety and Health Administration (OSHA) standards.

D. The laboratory must have provisions for the proper storage and disposal of chemical and radiological wastes. The appropriate type of exhaust hood is required where applicable.

E. There must be sufficient bench space for processing samples. Workbench space should be convenient to sink, water, gas, vacuum and electrical sources free from surges.

F. Instruments must be properly electrically grounded.

G. Counting instruments must be located in a room other than one in which samples and standards are being prepared or where other types of chemical analyses are performed.

H. The analytical and sample storage areas must be isolated from all potential sources of contamination.

I. There should be sufficient storage space for chemicals, glassware and portable equipment, sufficient floor and bench space for stationary equipment and areas for cleaning materials.

J. Volatile or corrosive chemicals and flammable solvents shall be stored in accordance with the federal Occupational Safety and Health Act (OSH Act) and attendant OSHA regulations.

K. Adequate fire precautions shall be taken including, but not limited to, having readily available a fire extinguisher rated for the types of fires that may reasonably be foreseen given the types of testing and analyses performed by and the types of materials handled by the laboratory.

L. Appropriate occupational safety and health laws and regulations shall be posted and observed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3228 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8069. Specifications for Laboratory Equipment and Instrumentation [Formerly §8067]

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses, shall have on the premises and under the control of the technical manager, all of the equipment and instruments necessary to analyze each parameter in which the laboratory is certified, or is seeking certification. All instruments shall be properly maintained and calibrated and such equipment and instruments including records shall meet the requirements in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3228 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8071. Measurement Traceability [Formerly §8069]

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall meet the measurement traceability requirements specified in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3228 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8073. Sample Collection, Handling and Preservation [Formerly §8071]

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall have procedures for sample collection, handling and preservation techniques that meet the requirements in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. Samples requiring preservation shall be preserved at the time of collection. A laboratory that has interim approval or certification shall accept only samples which are properly labeled, and for which there is reasonable assurance that they have been collected, preserved, processed, stored and transported in such a manner as to identity and stability of the sample with respect to the requested tests or analyses. If the identity/stability of the sample has not been assured, the laboratory report shall clearly state that the result may be invalid due to an unsatisfactory sample.

C. All samples requiring thermal preservation shall be considered acceptable if the arrival temperature of a representative sample container is within the method's specified range. Additional acceptance criteria are specified in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters and in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. The laboratory must measure and record the temperature of the sample when it arrives when temperature preservation is required by the method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3229 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8075. Methodology and Method Validation [Formerly §8073]

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall use the test procedures specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters. Additionally, the laboratories shall comply with the requirements in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. The laboratory shall list, in its quality manual, and have on hand the SOPs for each analytical method used. This listing should include the name of the method and a complete reference as to the source.

C. Applicable SOPs shall be available in the laboratory at the analyst's work station.

D. The laboratory shall validate reference methods via the procedures specified in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

E. Prior to the acceptance and institution of any method, a satisfactory initial DOC shall be performed by the laboratory pursuant to the requirements in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters and in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. Documentation shall be maintained by the laboratory for the initial and any ongoing DOC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3229 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8077. Quality Assurance for Radiochemical Testing [Formerly §8075]

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses, shall have established quality control procedures pursuant to Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. The laboratory shall implement the essential quality controls procedures in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

C. The laboratory shall perform all quality control procedures at the frequency required in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters. In addition, the laboratory shall meet the acceptance criteria specified in the applicable, approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters.

D. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses, shall maintain control charts for each instrument and method used by the laboratory for compliance monitoring sample measurements. Instrument initial calibrations and all efficiency and instrument background checks shall be maintained in a permanent record. Control charts shall be maintained as specified in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. Until sufficient data are available from the laboratory, usually a minimum of 20 to 30 test results on a specific analysis, the laboratory shall use the control limits (if specified) in the method. When sufficient data becomes available, the laboratory shall develop control charts from the mean percent recovery ($\bar{X}$) and the standard deviation (S) of the percent recovery for the Quality Control (QC) checks specified in the above Subsections of this Section (also, see Chapter VI of the Handbook for Analytical QC in Water and Wastewater Laboratories, EPA-600/4-79-019 or Standard Methods for the Examination of Water and Wastewater, 20th Edition, Part 1020B, or similar laboratory analytical QC reference texts for further information). These data are used to establish upper and lower control limits as follows:

1. upper control limit = $\bar{X}$ + 3S (upper warning limit, use + 2S instead of + 3S);

2. lower control limit = $\bar{X}$ - 3S (lower warning limit, use - 2S instead of - 3S).

E. After every 20 new recovery measurements, new control limits should be calculated using the most recent 20-30 data points. These calculated control limits shall not exceed those established in the method. If any of these calculated control limits are tighter than the control limits specified within the method, the laboratory shall use the tighter criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3229 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8079. Records and Data Reporting [Formerly §8077]

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses, shall meet the requirements for reporting results pursuant to Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. Compliance monitoring data shall be made legally defensible by keeping thorough and accurate records. The quality manual and/or SOPs shall describe the policies and procedures used by the facility for record retention and storage. If samples are expected to become part of a legal action, chain of custody procedures shall be used.

C. Maintenance of Records. PWSs are required to maintain records of radiological/radiochemical analyses of compliance samples for 10 years (40 CFR 141.33). The laboratory should maintain easily accessible records for 10 years. The client water system should be notified before disposing of records so they may request copies if needed. This includes all raw data, calculations, and quality control data. These data files may be either hard copy, microfiche or electronic. Electronic data shall always be backed up by protected tape or disk or hard copy. If the laboratory changes its computer hardware or software, it should make provisions for transferring old data to the new system so that it remains retrievable within the time frames specified above.

D. Sampling Records. Data should be recorded in ink with any changes lined through such that the original entry is visible. Changes shall be initialed and dated. The following information should be readily available in a summary or other record(s):

1. date of sampling, location (including name of utility and PWS ID #, if the water system is a PWS), sampling site within the water system, time of sampling, name, organization and phone number of the sampler, and analyses required;

2. identification of the sample as to whether it is a routine distribution system sample, check sample, raw or

finished water sample, repeat or confirmation sample or other special purpose sample;

3. date of receipt of the sample by the laboratory;

4. sample volume/weight, container type, preservation and holding time and condition on receipt;

5. pH (from plant records) and disinfectant residual at time of sampling (from on-site analysis by sampler at the time of sampling);

6. disinfectant residual by laboratory immediately prior to analysis; and

7. transportation and delivery of the sample (person/carrier, conditions).

E. Analytical Records. Data shall be recorded in ink with any changes lined through such that the original entry is visible. Changes shall be initialed and dated. The following information shall be readily available:

1. laboratory and persons responsible for performing the analysis;

2. analytical techniques/methods used;

3. date and time of analysis;

4. results of sample and quality control analyses; and

5. calibration and standards information.

F. Personnel Records. Résumés and training records shall be maintained for all personnel. Documentation of the initial demonstration of capability for analysts/technicians shall be kept on file as well as the results of proficiency testing.

G. Reconstruction of Data. Adequate information shall be available to allow the assessor to reconstruct the final results for compliance samples and performance evaluation samples.

H. Computer programs. Computer programs shall be verified initially and periodically by manual calculations and the calculations shall be available for inspection. Access to computer programs and electronic data shall be limited to appropriate personnel.

I. The original or true duplicate of the results of the test or analysis shall be sent promptly to the person who requested such tests or analysis. In addition, the results of compliance monitoring samples are to be sent to the Engineering Services Section of the department.

1. The results data shall be signed by the technical manager or a designee whose designation is in writing and whose name has been submitted to the department. Data and results submitted to the department shall be submitted electronically, maintained, and stored in writing in the format specified by the Engineering Services Section of the department. When any sample result exceeds the maximum contaminant level (MCL), secondary MCL, or may cause a treatment technique requirement violation for any regulated contaminant listed in the federal Safe Drinking Water Act (42 USC 300f et seq.) and its implementing regulations (40 CFR Parts 141 and 143), a certified laboratory shall report the result to the supplier of water and the Engineering Services Section of the department as soon as possible but no later than the end of the next business day after the result was determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3230 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8081. General Laboratory Practices [Formerly §8079]

A. Chemicals/Reagents. Chemicals and reagents used must meet the specifications in the referenced method. If not specified therein, then analytical reagent (AR) grade or American Chemical Society (ACS) grade chemicals or better shall be used for analyses in certified laboratories.

B. Reagent Water. The laboratory shall have a source of reagent water meeting the requirements of being an American Society of Testing Materials (ASTM) Type 1, 2, or 3 reagent water, having a minimum resistivity of 10 megohms-cm (conductivity less than 0.1 microhoms/cm) at 25ºC. It shall be monitored daily by measuring the reagent water's conductivity or resistivity and documented. Radioactive components have been known to break through reagent water manufacturing units before an increase in resistivity is noted. To monitor the background radioactivity of the reagent water, it is to be screened for radioactivity each time the treatment unit is serviced, and periodically thereafter depending on the volume of reagent water use at the laboratory between servicing units.

C. Glassware Preparation. Specific requirements in the methods for the cleaning of glassware must be followed. The purpose of these requirements are to minimize the possibility that glassware can contaminate samples, and should include acid rinsing. Acid rinsing not only mobilizes any metals remaining adhering to their surfaces, but also hydrates the outer silica layer on the glassware which inhibits contamination with radioactive materials. If there are no specifications for cleaning glassware in the method, then the glassware should first be washed in detergent solution, then thoroughly rinsed in tap water followed by a second rinse in a dilute acid solution, and finally rinsed with reagent water and dried.

D. Distilled and deionized water shall have at a minimum, resistivity values between 0.5 to 2.0 megohms-cm (2.0 to 0.5 micromhos/cm.) at 25º C. Preferably, distilled and deionized water should have resistivity values greater than 1.0 megohms-cm (less than 1.0 micromhos/cm) at 25ºC. When purchasing distilled or deionized water, laboratories should request a list of quality specifications for the water purchased. Containers of distilled or deionized water should be capped when not in use and should be capped immediately after each use.

E. All solutions shall be properly labeled with identification of the compound, concentration, solvent, date, and analyst who prepared the solution.

F. All chemicals, solutions, and standards, shall be dated upon receipt by the laboratory; and the date opened by the laboratory shall also be noted.

G. Compositing of Samples. If deemed acceptable by the department, samples may be composited by the utility or the laboratory, provided that all the sample aliquots are properly preserved at the time of collection. Since the required compliance protocol monitoring measurements is "total activity" (i.e., the composited sample is required to represent the maximum potential exposure from drinking water), samples shall not to be filtered before preservation. Samples must be drawn on a quarterly basis and where compositing is not done by the laboratory, there shall be documentation submitted with the composited sample detailing on what particular day(s) each aliquot was obtained, its volume, and

when it was preserved. A sample of the preservative itself shall accompany the composited sample to the laboratory to determine the contribution of radioactivity, if any, from the addition of the preservative to the sample. Analysis of the composited sample shall be completed within 1 year after the first sample is collected or within normal holding times if the compositing period is less than 90 days. Wherever possible, the laboratory should be responsible for managing the compositing of samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3231 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:

§8083. Management System General Requirements [Formerly §8081]

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall establish, implement and maintain a management system. The laboratory's management system policies related to quality, including a quality policy statement, shall be defined in a quality assurance plan (however named). The quality assurance plan shall include all the requirements in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. The quality assurance plan shall be made available to all laboratory personnel.

B. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall establish and maintain a documented data integrity system. There are four elements within a data integrity system. These are:

1. data integrity training;
2. signed data integrity documentation for all laboratory employees;
3. in-depth, periodic monitoring of data integrity; and
4. data integrity procedure documentation.

C. The procedures of the data integrity system required under Subsection B of this Section shall be signed by top management.

D. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall maintain SOPs that accurately reflect all phases of current laboratory activities, such as assessing data integrity, corrective actions, handling customer complaints and all analytical methods. All quality control data and records required by this Section shall be retained by the laboratory for a minimum of 10 years and shall be made available for inspection by the department. Such retained data shall include, but shall not be limited to, the results of and raw data generated by proficiency test analyses.

E. Control of Nonconforming Environmental Testing Work. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall meet the requirements for the control of nonconforming environmental testing pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

F. Laboratory Improvement, Corrective Action and Preventive Action. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall meet the requirements for improving the laboratory, and implementing corrective and preventive actions pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

G. Internal Audits. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall meet the requirements for establishing and conducting internal audits of laboratory activities pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:

Family Impact Statement

1. The effect on the stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on the family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or local government to perform the function as contained in the proposed Rule.

There will likely be minimal impact on the above items.

Poverty Impact Statement

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. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

There will likely be minimal impact on the above items.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental, and economic factors has considered, and, where applicable, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of the applicable statutes while minimizing any anticipated adverse impact on small businesses.

Two laboratories located in Louisiana are currently primarily certified by the LDH-OPH Drinking Water Laboratory Certification Program by TNI accreditation. Upon promulgation of this Notice of Intent as a final Rule, and subsequent withdrawal from TNI, these two laboratories will have to obtain a new primary certification body for TNI accreditation if they wish to remain TNI accredited. Both laboratories currently have multiple secondary TNI accreditation bodies (ABs) that are being paid annual fees. Due to this, there will likely be no fiscal impact upon the laboratories if they choose one of their current secondary TNI ABs as a new primary. The only impact will be an

additional onsite assessment performed by the TNI AB of their choosing, if they choose to remain in TNI. The laboratories must maintain state certification through the LDH-OPH program, if reporting analytical data to LDH-OPH, and continue to receive onsite assessments through said program as they have been previously.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. 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.

There will likely be minimal impact on the above items.

Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Tuesday, June 29, 2020 at COB, 4:30 p.m., and should be addressed to Dr. Scott Miles, Assistant Laboratory Director, Central Laboratory, Office of Public Health, 1209 Leesville Avenue, Baton Rouge, LA 70802.

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; however, such request must be received no later than 4:30 p.m. on Tuesday, June 9, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:00 am on Tuesday, June 29, 2020, 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 Allen Enger at (225) 342-1342 after June 9, 2020. 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.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Certification of Laboratories Performing Drinking Water Analyses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to decrease expenditures for the Office of Public Health (OPH) by $7,000 annually, which is the cost of membership in The NELAC Institute (TNI). OPH is not renewing its membership with TNI; therefore, OPH will no longer be able to offer TNI accreditation to drinking water laboratories. The proposed rule change updates rules to reflect that OPH longer provides TNI accreditation.

In the first year, this expenditure decrease will be offset by the cost associated with the publication of the rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

OPH charges eight drinking water laboratories an annual TNI accreditation fee ranging between $750-$1,000. Since OPH will no longer provide THI accreditation, they will no longer collect this fee.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Currently, OPH provides TNI accreditation for eight drinking water laboratories. If the labs wish to maintain TNI accreditation, they will have to seek reaccreditation from a different TNI approved accreditor. There are twelve other TNI approved accreditors, all of which are located out of state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Alexander Billioux, MD, DPhil
Assistant Secretary
2005#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
Coverage of Donor Human Breast Milk
(LAC 50:V.111)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.111 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 adopt provisions governing reimbursement outside of the inpatient hospital per diem for donor human breast milk provided to hospitalized premature newborns in order to ensure access to an effective treatment to reduce the incidence of severe complications.

Title 50
PUBLIC HEALTH MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals Services
Chapter 1. General Provisions
§111. Coverage of Donor Human Breast Milk

A. The Medicaid Program shall provide reimbursement to acute care hospitals for donor human breast milk provided to hospitalized infants.

B. Reimbursement. Hospitals shall be reimbursed for donor human breast milk when obtained from a member bank of the Human Milk Banking Association of North

America. Reimbursement will be made as an add-on service in addition to the hospital payment for the inpatient hospital stay.

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 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring that premature newborns have access to an effective treatment to prevent serious complications.

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 ensuring that premature newborns have access to an effective treatment to prevent serious complications.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2020.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2020. 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 June 25, 2020 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 Allen Enger at (225) 342-1342 after June 9, 2020. 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.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Inpatient Hospital Services Coverage of Donor Human Breast Milk

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 programmatic costs of $270 for FY 19-20, $78,650 for FY 20-21 and $98,050 for FY 21-22. It is anticipated that $540 ($270 SGF and $270 FED) will be expended in FY 19-20 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 67.28 percent in FY 20-21 and FY 21-22.

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 $270 for FY 19-20, $161,722 for FY 20-21 and $201,614 for FY 21-22. It is anticipated that $270 will be collected in FY 19-20 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 FMAP rate of 67.28 percent in FY 20-21 and FY 21-22.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule adopts provisions governing reimbursement outside of the inpatient hospital per diem for donor human breast milk provided to hospitalized premature newborns. Implementation of this proposed Rule will have a positive impact on recipients, as it will ensure access to an effective, evidence-based treatment to reduce the incidence of severe complications. Acute care hospitals will benefit from payment for these services outside of the inpatient hospital per diem, which will be off-set by the reduction in the level of care and length of stay required for these premature newborns. This proposed Rule will have no impact on small businesses. It is anticipated that implementation of this proposed rule will increase programmatic costs for inpatient hospital services by approximately $240,372 for FY 20-21 and $299,664 for FY 21-22; however, LDH's actuarial consultants have determined that the costs may be offset entirely by savings realized through reductions in expenditures related to neonatal complications.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that implementation of this proposed rule will not have any known effect on competition and employment.

Erin Campbell
Acting Medicaid Director
2005#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 45—Filing of Affirmative Action Plans
(LAC 37:XIII.Chapter 17)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:11 et seq., the Department of Insurance hereby gives notice of its intent to amend Regulation 45 for the purpose of implementing the provisions of Act No. 274 of the 2015 Regular Session of the Louisiana State Legislature that reorganized and renamed several divisions within the Louisiana Department of Insurance, including the Division of Minority Affairs, which was renamed the of Division of Diversity and Opportunity.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 17. Regulation Number 45—Filing of Affirmative Action Plans

§1701. Purpose

A. The purpose of this regulation is to implement R.S. 22:33(A)(1), which requires an insurer to file an affirmative action plan upon the violation of a cease and desist order issued by the commissioner after hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:32 and 22:33 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1581 (December 1993), LR 46:

§1703. Applicability and Scope

A. This regulation applies to any insurer that is called for hearing before the commissioner for violating Chapter 1, Part I, Subpart C of the Insurance Code (Equal Opportunity in Insurance) and found to be in violation of a cease and desist order issued in accordance with the provisions of R.S. 22:33(A). It sets forth the minimum content and procedures for the filing of an affirmative action plan by an insurer who violates Chapter 1, Part I, Subpart C of the Insurance Code, and who then violates a cease and desist order issued by the commissioner after hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:32 and 22:33 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1581 (December 1993), LR 46:

§1705. Content and Procedure

A. The commissioner shall notify an insurer of its violation of a cease and desist order issued pursuant to Chapter 1, Part I, Subpart C of the Insurance Code by certified U.S. mail, return receipt requested. Said notification shall also direct the insurer to file an affirmative action plan.

B. …

C. The insurer shall file its plan by means of the U.S. mail, and it shall contain the minimum requirements stated in R.S. 22:33(C)(4)(a) and (b).

D. The insurer shall address the plan to the attention of the Division of Diversity and Opportunity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:32 and 22:33 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1581 (December 1993), LR 46:

§1707. Effective Date

A. This regulation shall become effective upon final promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:32 and 22:33 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1581 (December 1993), LR 46:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the

adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than June 22, 2020, by close of business or by 4:30 p.m. and should be addressed to Lisa Henson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, or faxed to (225) 342-1632. 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 45
Filing of Affirmative Action Plans

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed amendments implement provisions of Act 274 of 2015, which reorganized and renamed several divisions within the LA Dept. of Insurance, including the Division of Minority Affairs, which was renamed the Division of Diversity and Opportunity.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. The proposed rule change implements provisions of Act 274 of 2015, which reorganized and renamed several divisions within the LA Dept. of Insurance, including the Division of Minority Affairs, which was renamed the Division of Diversity and Opportunity.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Denise Brignac
Chief of Staff
2005#033

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Vapor Products Public Safety Regulations
(LAC 55:VII.3120-3134)

Under the authority of R.S. 26:922 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to enact LAC 55:VII.3120-3134, relative to the regulation of alternative nicotine and vapor products within the state of Louisiana.

The proposed enactment of the above-referenced rule is offered under the authority delegated in R.S. 26:922 to allow ATC the ability to properly permit, authorize, and regulate the sale and distribution of alternative nicotine and vapor products. The proposed Rule will address the retail sale and distribution of alternative nicotine and vapor products and related matters.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 2. Tobacco
Chapter 32. Alternative Nicotine and Vapor Products Public Safety Regulations

§3201. Definitions

A. As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

E-Liquid—a substance that does not include cannabis or CBD as defined under the laws of this state and the laws of the United States and which meet all of the following criteria:

a. may or may not contain nicotine;

b. is intended to be vaporized and inhaled using a vaporized and inhaled using a vapor product;

c. is a legal substance under the laws of this state and the laws of the United States.

Manufacturer—anyone engaged in the manufacture, production, or foreign importation of tobacco products, vapor products, and alternative nicotine who sells to wholesalers.

Retail Dealer—includes every dealer other than a wholesale dealer, or manufacturer who sells or offers for sale, cigars, cigarettes, other tobacco products, alternative nicotine products, irrespective of quantity or the number of sales. If any person is engaged in the business of making sales both at retail and wholesale, *retailer* shall apply only to the retail portion of the business.

Tamper Evident Package—a package having at least one indicator or barrier to entry that, if breached or missing, can reasonably be expected to provide visible evidence to consumer that tampering has occurred.

Wholesale Dealer—a dealer whole principal business is that of a wholesaler, who sells cigarettes, cigars or other tobacco products to retail dealers for purpose of resale, who is a bona fide wholesaler, and 50 percent of whose total tobacco sales are to retail stores other than its own or those of its subsidiaries or parent companies within Louisiana. Wholesaler dealer shall include any person in the state who acquires cigarettes solely for the purpose of resale in vending machines, provided such person services 50 or more cigarette vending machines in Louisiana other than his own, and a Louisiana dealer who was affixing cigarette and tobacco stamps as of January 1, 1974. If any person is engaged in the business of making sales at both wholesale and retail, wholesaler shall apply only to the wholesale portion of the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3203. General Requirements

A. Every person who sells or is about to engage in the business of selling at retail, at wholesale, or by vending machine, or is about to engage in the business of receiving unstamped and/or non-tax paid tobacco products, vapor products, or alternative nicotine products or who is engaged in the business of receiving stamped cigarettes at wholesale or any or all of the articles taxed in accordance with Title 47 of Louisiana Revised Statutes of 1950, shall first apply to and obtain from the office a permit for each place of business and each vending machine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3205. Acts Prohibited

A.1. No retail dealer shall purchase tobacco products or resale except from a wholesaler dealer operating with a valid unsuspended wholesale dealer permit, except as provided for in this Chapter.

2. No vapor retail dealer shall purchase alternative nicotine products or vapor products for resale except from a manufacturer of those products or a wholesale dealer operating with a valid unsuspended Louisiana wholesale dealer permit, except as provided for in this Chapter.

B. No wholesale dealer shall sell tobacco products, alternative nicotine products, or vapor products for resale except to a retail dealer operating with either a valid registration certificate or a valid unsuspended permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3207. Inspection and Examination

A. The commissioner or her agent may inspect any place of business where alterative nicotine or vapor products are stored, offered for retail sale, or offered for wholesale. She or her agent may examine, at all reasonable hours, the books records, and other documents of all retail deal permit holders.

B. No person shall refuse to allow, on demand, the commissioner or her agent to make a full inspection of a place of business where alternative nicotine or vapor products are offered for wholesale and/or sale to the public, nor shall any person refuse to allow, on demand, the commissioner or her agent to examine and audit the book and records of any business where alternative nicotine or vapor products are offered for wholesale and/or sale to the public, nor shall any person in any way hinder or prevent such an inspection or audit.

C. Any refusal by a retail permit dealer to allow the commissioner or her agent to inspect the permitted place of business or to examine and audit the books and records of the permitted business as provided within this section is grounds for the suspension of a permit, in addition to other penalties provided in this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3209. Manufacturer Authorization

A. Manufacturers of vapor products shall not sell vapor products in this state without authorization from the office of alcohol and tobacco control. The request for authorization shall include:

1. the name, telephone number of the applicant;

2. the name, telephone number, and address of the manufacturing facility;

3. the name, telephone number, title, and address of the person responsible for the manufacturing facility;

4. verification that the facility will comply with applicable tobacco products good manufacturing practices

pursuant to 21 U.S.C. 387f(e) of the Federal Food, Drug, and Cosmetic Act;

5. verification that the manufacturer will comply with the applicable ingredient listing required by 21 U.S.C. 387d(A)(1) of the Federal Food, Drug, and Cosmetic Act.

B. Authorization forms shall be mailed or delivered to the commissioner in Baton Rouge, Louisiana, unless other additional methods are made available by the commissioner.

C. Authorization forms will be processed at the office of alcohol and tobacco control at no cost to the applicant.

D. Authorization forms will be valid for a period of one year.

E. Manufacturer authorizations shall be considered a privilege and is not transferrable, assignable, or hereditable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3211. Safety Requirements

A. All manufacturers and wholesalers shall comply with the following:

1. any alternative nicotine or vapor product must use a child proof cap that has a child resistant effectiveness set forth in the federal poison prevention packaging standards, 16 CFR 1700.1(b)(1).

2. any alternative nicotine or vapor product must use tamper evident packaging. The tamper evident packaging feature must be designed to and remain intact when handled in a reasonable manner.

B. Any manufacturer or wholesaler who violates the safety requirement provisions of this chapter shall be subject to having their permit suspended or revoked.

AUTHORITY NOTE Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3213. Age Verification

A. For all online sales manufacturers and wholesalers must perform an age verification process through an independent, third party age verification service that compares information from public records to the personal information entered by the purchaser during the ordering process that establishes the person is of legal age or older.

B. Persons accepting purchase orders for delivery sales may request that prospective consumers provide their email addresses.

C. No retailer may sell or deliver alternative nicotine or vapor products of any kind in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the customer submits to a clerk a valid driver's license, selective service card, or other lawful identification that on its face establishes the age of the person as 18 years or older and there is no reason to doubt the authenticity and correctness of the identification prior to approaching the self-checkout counter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3215. Prohibition Sales to Minors

A. No person holding a retail dealer permit and no servant, agent, or employee of the permittee shall sell any alternative nicotine or vapor products to any person under the age of 18 years of age.

B. To ensure that no alternative nicotine or vapor products are sold to a person under the age of 18 years of age, a retail dealer permit holder and their servants, agents, and employees may require all person attempting to purchase alternative nicotine or vapor products at retail to product for inspection either:

1. a valid, current, Louisiana driver's license which contains a photograph of the person presenting the driver's license;

2. a valid, current, driver's license of another state which contains a photograph of the person and birth date of the person submitting the driver's license;

3. a valid, current, special identification card issued by the state of Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting the identification card;

4. a valid, current, passport, visa issued by the federal government or another county or nation, that contain a permanently attached photograph of the person and the date of birth of the person submitting the passport or visa;

5. valid, current, military or federal identification issued by the federal government containing a photograph of the person and date of birth of the person submitting the identification card;

6. a valid, current, special identification card of another state which contains a photograph of the person and birth date of the person submitting the identification card;

7. any digitized identification approved by the commissioner may be accepted by a retail dealer. Retail dealers may choose to accept digitized identification or they may still require a physical identification when checking identification. Retail dealers whom the agency has required to utilized scanners shall still be required to request and scan a physical identification and may not accept digitized identification. Digitized identification may be accepted by establishments provided that all employees have been properly trained prior to acceptance in accordance with the requirements of LAC 55:VII.401.D.

C. Each form of identification listed above must on its face establish the age of the person as 18 years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned above shall be accepted as proof of age if its expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional information which contains the name, date of birth, and picture of the person. A duplicate driver's license shall be considered lawful identification for the purposes of this Subsection, and a person shall not be required to submit additional information containing the name, date of birth, and picture of the person. In addition, an educational institution identification card, check cashing identification card, or employee identification card shall not be considered as lawful identification for the purpose of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

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. This proposed Rule has a negligible 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. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to R. Danielle Barringer, Office of Alcohol and Tobacco Control, 7979 Independence Blvd, Suite 101, Baton Rouge, LA 70806, no later than 4:30 p.m., Monday, June 15, 2020. She is responsible for responding to inquiries regarding this proposed Rule.

Juana Marine-Lombard
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Vapor Products
Public Safety Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules may result in marginal costs for the LA Dept. of Revenue, Office of Alcohol and Tobacco Control (ATC), as they allow ATC to inspect and examine retailers selling alternative nicotine and vapor products. Furthermore, the proposed rules require ATC to process authorization forms for manufacturers of nicotine and vapor products. ATC may realize marginal cost increases associated with inspecting retailers and processing manufacturer authorization forms that will be offset in whole or in part by revenues collected from permitting firms selling vapor products as tobacco retailers (see Part II).

The proposed rules will not result in any costs or savings for local governmental units.

The proposed rules provide for the regulation of alternative nicotine and vapor products under the provisions of Act 424 of 2019. The rules allow for the state of Louisiana to properly permit, authorize, and regulate the retail sale, manufacturing, and distribution of alternative nicotine and vapor products. Furthermore, the proposed rules outline the requirements of retailers and manufacturers of alternative nicotine and vapor products in Louisiana, including prohibited acts and safety requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase revenues for ATC by an indeterminable, though potentially significant amount beginning in FY 20 and in subsequent fiscal years. ATC anticipates retailers selling vapor products to be permitted as retail dealers, which carries an annual permit fee of $25. The revenue increase is indeterminable because the number of retailers selling vapor products who do not currently hold a retail dealer permit is unknown. However, to the extent that there is a large number of unpermitted retailers (i.e. retailers selling vapor products not already permitted to sell stamped tobacco products) selling vapor products in Louisiana, the potential revenue increase may be significant.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules generally outline the requirements of retailers selling vapor products, but include annual permitting requirements for retailers with associated fees of $25. Furthermore, the proposed rules outline prohibited acts and safety requirements, require open inspections of premises by ATC, require age verification of persons purchasing vapor products, and prohibit sales to minors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not affect competition or employment.

Juana Marine-Lombard	Evan Brasseaux
Commissioner	Staff Director
2005#012	Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury
Municipal Police Employees' Retirement System

Allow Group Trusts Investments
(LAC 58:XVIII.106)

The Municipal Police Employees' Retirement System proposes to adopt LAC 58:XVIII.106 as authorized by R.S. 11:2225. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Board of Trustees of the Municipal Police Employees' Retirement System invests funds on behalf of its members.

This system proposes to amend the provisions pertaining to investment to allow participation in group trusts so long as it does not impact the tax qualified status of the retirement system.

Title 58
RETIREMENT
Part XVIII. Municipal Police Employees' Retirement System

§106. Participation in Group Trusts

A. To the extent it does not affect the tax qualified status of the retirement system, and is permitted by United States Internal Revenue Service Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance), the board of trustees is authorized to:

1. for investment purposes, transfer assets of the retirement system to, and pool such assets in, one or more group trust(s); and

2. adopt one or more group trust(s), and/or the terms of such group trust(s), as part of the retirement system to the extent necessary to meet the requirements of applicable law, by executing appropriate participation and/or adoption agreements with the trustee(s) of the group trust(s).

B. For purposes of transferring assets of the retirement system to a trustee(s) of any current or future group trust(s), by the execution of such group trust's participation agreement(s), the board of trustees specifically adopts the trustee's declaration of the group trust as part the retirement system to the extent of its interest in the group trust, or as is required by applicable law, for the purposes of such investment and compliance with Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance).

C. For purposes of valuation, the value of the interest maintained by the retirement system in a group trust shall be determined in accordance with the governing instrument of the group trust to determine the fair market value of the portion of the group trust held for the retirement system, determined in accordance with generally recognized valuation procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:

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. This proposed rule has no impact on family functioning, stability, or autonomy.

Small Business Analysis

The proposed rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Ashlee McNeely, Municipal Police Employees' Retirement System, 7722 Office Park Blvd. Suite 200, Baton Rouge, LA 70809. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is not being held as this rule is aligning the system with requirements from the Internal Revenue Service. Anyone requesting a hearing may do so by sending a written request to Ashlee McNeely, Municipal Police Employees' Retirement System, 7722 Office Park Blvd. Suite 200, Baton Rouge, LA 70809.

Benjamin A. Huxen
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Allow Group Trusts Investments

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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the implementation of this proposed rule will not affect revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the Board of Trustees' ability to enter into group trusts for investment purposes. It is anticipated that implementation of this proposed rule will not have economic cost or benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Benjamin A. Huxen
Executive Director
2005#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury
Municipal Police Employees' Retirement System

Define True Annuity and Other Approved Methods Under New DROP Legislation (LAC 58:XVIII.301)

The Municipal Police Employees' Retirement System proposes to adopt LAC 58:XVIII Chapter 3 as authorized by R.S. 11:2221. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The system proposes to define the term True Annuity and how it relates to the retirement benefit payable to a member upon retirement. The proposed Rue is simply codifying current practice within the Municipal Police Employees' Retirement System and defines the term "true annuity" and how it applies under the new Deferred Retirement Option Plan (DROP) statute.

Title 58
RETIREMENT
Part XVIII. Municipal Police Employees' Retirement System
Chapter 3: Deferred Retirement Option Plan (DROP)

§301. Definitions

A. For the purposes of R.S. 11:2221, the following definitions shall apply.

True Annuity—a retirement benefit that is payable in equal, unreduced monthly payments during the member's lifetime, with no further payments to any other person after the member's death. This may sometimes be referred to as the *maximum benefit* or *maximum plan*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2221(N).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:

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. This proposed Rule has no impact on family functioning, stability, or autonomy.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Ashlee McNeely, Municipal Police Employees' Retirement System, 7722 Office Park Blvd. Suite 200, Baton Rouge, LA 70809. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is not being held as this Rule is codifying practice already in use by the system. Anyone requesting a hearing may do so by sending a written request to Ashlee McNeely, Municipal Police Employees' Retirement System, 7722 Office Park Blvd. Suite 200, Baton Rouge, LA 70809.

Benjamin A. Huxen
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Define True Annuity and Other Approved Methods Under New DROP Legislation

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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the implementation of this proposed rule will not affect revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule defines the term True Annuity as it relates to a retiree's benefit payment. It is anticipated that implementation of this proposed rule may have tax implications for the retiree who chooses this plan.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Benjamin A. Huxen
Executive Director
2005#052

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury
Municipal Police Employees' Retirement System

Military Service Purchases and Compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) (LAC 58:XVIII.501)

The Municipal Police Employees' Retirement System proposes to adopt LAC 58:XVIII.Chapter 5 as authorized by R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29-411, et seq. and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.). This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The system proposes to allow the purchase of service credit for military time in accordance with R.S. 11:153 and will comply with the requirements of USERRA, as well as the rules and regulations set forth by the United States Department of Labor. This Rule is codifying practice already in use by the system as required by statute.

Title 58
RETIREMENT
Part XVIII. Municipal Police Employees' Retirement System
Chapter 5. Military Service Purchases
§501. Service Credit

A. This Section is adopted in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S. C. 4301 et seq.).

B. Purchase of service credit for military service shall be in accordance with R.S. 11:153.

C. The board shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S. C. 4301 et seq.) as well as rules and regulations issued by the United States Department of Labor relating to USERRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:152.1 and 11:153(I).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:

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. This proposed rule will have no impact on family functioning, stability, or autonomy.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Ashlee McNeely, Municipal Police Employees' Retirement System, 7722 Office Park Blvd. Suite 200, Baton Rouge, LA 70809. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule will not be held as this rule is codifying practice that is currently in use by the system. Anyone requesting a hearing may submit a written request to Ashlee McNeely at 7722 Office Park Blvd. Suite 200, Baton Rouge, LA 70809.

Benjamin A. Huxen
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Military Service Purchases and Compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA

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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the implementation of this proposed rule will not affect revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule allows the purchase of former military time to be put towards a current member's years of services with MPERS. It is anticipated that implementation of this proposed rule will have a financial impact determined by an actuary for the member choosing to purchase past military time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Benjamin A. Huxen Executive Director 2005#051	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury
Municipal Police Employees' Retirement System

Renunciation of Benefit
(LAC 58:XVIII.701)

The Municipal Police Employees' Retirement System proposes to adopt LAC 58:XVIII.Chapter 7 as authorized by R.S. 11:2220.4. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The system proposes to allow any member of MPERS who is eligible to receive, or is receiving, a benefit may renounce such benefit under certain terms and conditions. This Rule is codifying practice that is already in use by the system as required by statute.

Title 58
RETIREMENT
Part XVIII. Municipal Police Employees' Retirement System
Chapter 7. Renunciation of Benefits
§ 701. Terms and Conditions of Renunciation of Benefit

A. Any person eligible to receive, or receiving, a benefit from the Municipal Police Employees' Retirement System may renounce such benefit under the following terms and conditions.

1. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment of inflation, or one-time supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

2. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

3. If the party making the renunciation is married, the spouse must join in the renunciation.

4. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:2224(C).

5. If the person making the renunciation is legally separated or divorced but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

6. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

7. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

8. A renunciation must be made on a form provided by MPERS and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by MPERS.

9. A person revoking or participating in renunciation of a benefit must hold MPERS harmless from such action.

10. A renunciation may not be used to terminate active participation in MPERS.

11. Amounts credited to a DROP account cannot be renounced.

12. A benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

13. Only those who have selected the maximum benefit or Option 1 under R.S. 11:2224(A) may renounce their entire monthly benefit.

B. MPERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2220.4.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:

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. This proposed Rule has a positive impact on family functioning, stability, or autonomy by allowing the purchase of military time to go towards the member's retirement benefit.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Ashlee McNeely, Municipal Police Employees' Retirement System, 7722 Office Park Blvd. Suite 200, Baton Rouge, LA 70809. She is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is not being held as this Rule is codifying practice already in use by the system. Anyone requesting a hearing may do so by sending a written request to Ashlee McNeely, Municipal Police Employees' Retirement System, 7722 Office Park Blvd. Suite 200, Baton Rouge, LA 70809.

Benjamin A. Huxen
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Renunciation of Benefit

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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the implementation of this proposed rule will not affect revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule allows any member of MPERS who is eligible to receive or is currently receiving a benefit to choose to renounce said benefit under terms and conditions. The only estimated impact to the affected persons would be their election to renounce their monthly retirement benefit indefinitely.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Benjamin A. Huxen
Executive Director
2005#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

King and Spanish Mackerel and Cobia Size Limits
(LAC 76:VII.323)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.323) by modifying the recreational and commercial minimum size limit for cobia (*Rachycentron canadum*) from 33 inches fork length to 36 inches fork length. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), R.S. 56:320.2, R.S. 56:326.1, and R.S. 56:326.3 to the Wildlife and Fisheries Commission.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§323. Size Limits of King and Spanish Mackerel and Cobia

A. - A.1. …

2. The minimum legal size for possession of cobia (*Rachycentron canadum*) whether caught within or without the territorial waters of Louisiana shall be 36 inches fork length. No person shall possess, sell, barter, trade, or exchange or attempt to sell, barter, trade, or exchange cobia less than the minimum size requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 13:502 (September 1987), amended LR 17:207 (February 1991), LR 26:1505 (July 2000), LR 46:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

This proposed Rule will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Provider Impact Statement

This proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, July 2, 2020.

William Hogan
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: King and Spanish Mackerel and Cobia Size Limits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on expenditures of the Department of Wildlife and Fisheries (LDWF) or local governmental units associated with the proposed rule altering the minimum size limit for cobia (also known as ling or lemonfish). The rule changes the size limit for those cobia caught recreationally or commercially in Louisiana from 33 inches to 36 inches fork length.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed increase in the minimum size limits for cobia is expected to reduce offshore recreational landings by approximately 0.3 to 0.4 percent and negatively affect between 1.4 and 2.0 percent of offshore recreational fishing trips.

The proposed alterations in the commercial minimum size limits for cobia may reduce landings by approximately $11,600 to $15,000 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any potential effects on competition and employment in the private sector are not anticipated to be material.

Bryan McClinton	Evan Brasseaux
Undersecretary	Staff Secretary
2005#031	Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Office of Workers' Compensation Administration

Medical Treatment Guidelines
(LAC 40:I.Chapter 20)

The Louisiana Workforce Commission does hereby give notice of its intent to amend certain portions of the Medical Guidelines contained in the Louisiana Administrative Code, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 20, regarding low back pain guidelines. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C).

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Medical Guidelines
Chapter 20. Spine Medical Treatment Guidelines
Subchapter B. Low Back Pain

Editor's Note: Form LWC-WC 1009. Disputed Claim for Medical Treatment has been moved to §2328 of this Part.

§2013. Introduction

A. This document has been prepared by the Louisiana Workforce Commission, Office of Workers' Compensation (OWCA) and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Louisiana Workers' Compensation Act as injured workers with low back pain. Although the primary purpose of this document is advisory and educational, the guidelines are enforceable under the Louisiana Workers Compensation Act. All medical care, services, and treatment owed by the employer to the employee in accordance with the Louisiana Workers' Compensation Act shall mean care, services, and treatment in accordance with these guidelines. Medical care, services, and treatment that varies from these guidelines shall also be due by the employer when it is demonstrated to the medical director of the office by a preponderance of the scientific medical evidence, that a variance from these guidelines is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care. To properly utilize this document, the reader should not skip nor overlook any sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1655 (June 2011), amended LR 46:

§2015. General Guideline Principles

A. The principles summarized in this section are key to the intended implementation of all Office of Workers' Compensation medical treatment guidelines and critical to the reader's application of the guidelines in this document.

1. Application of Guidelines. The OWCA provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the provider, payer, and patient through the Workers Compensation Act.

2. Education. Education of the patient and family, as well as the employer, insurer, policy makers and the community should be the primary emphasis in the treatment of workers' compensation injuries. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must develop and implement strategies to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring and evidence-based information to the patient. More in-depth education is currently a component of treatment regimens which employ functional, restorative, preventive and

rehabilitative programs. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention. Facilitation through language interpretation, when necessary, is a priority and part of the medical care treatment protocol.

3. Informed Decision Making. Providers should implement informed decision making as a crucial element of a successful treatment plan. Patients, with the assistance of their health care practitioner, should identify their personal and professional functional goals of treatment at the first visit. Progress towards the individual's identified functional goals should be addressed by all members of the health care team at subsequent visits and throughout the established treatment plan. Nurse case managers, physical therapists, and other members of the health care team play an integral role in informed decision-making and achievement of functional goals. Patient education and informed decision-making should facilitate self-management of symptoms and prevention of further injury.

4. Treatment Parameter Duration—time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient adherence, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document. Such deviation shall be in accordance with La. R.S. 23:1203.1.

5. Active interventions emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, are generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions are viewed as a means to facilitate progress in an active rehabilitation program with concomitant attainment of objective functional gains.

6. Active Therapeutic Exercise Program. Exercise program goals should incorporate patient strength, endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.

7. Positive Patient Response. Positive results are defined primarily as functional gains that can be objectively measured.

a. Objective functional gains include, but are not limited to, positional tolerances, range-of-motion (ROM), strength, and endurance, activities of daily living, ability to function at work, cognition, psychological behavior, and efficiency/velocity measures that can be quantified. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings.

8. Re-Evaluation of Treatment within Four Weeks. If a given treatment or modality is not producing positive results within four weeks, treatment should be either modified or discontinued. Reconsideration of diagnosis should also occur in the event of poor response to a seemingly rational intervention.

9. Surgical Interventions. Surgery should be contemplated within the context of expected improvement of functional outcome and not purely for the purpose of pain relief. The concept of "cure" with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic conditions. The decision and recommendation for operative treatment, and the appropriate informed consent should be made by the operating surgeon. Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work activities and the patient should agree to comply with the pre- and post-operative treatment plan and home exercise requirements. The patient should understand the length of partial and full disability expected post-operatively.

10. Pharmacy Louisiana Law and Regulation. All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing medications used in the treatment of non-cancer-related chronic or intractable pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for pain management clinics; other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

11. Six Month Time Frame. Injuries resulting in temporary total disability may require maintenance treatment and may not attain return to work in six months.

12. Return to Work. Return to work is therapeutic, assuming the work is not likely to aggravate the basic problem or increase long-term pain. An injured worker's return-to-work status shall not be the sole cause to deny reasonable and medically necessary treatment under these guidelines. Two good practices are: early contact with injured workers and provide modified work positions for short-term injuries. The practitioner must provide specific physical limitations and the patient should never be released to non-specific and vague descriptions such as "sedentary" or "light duty." The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage and vibration factors. Even if there is residual chronic pain, return-to-work is not necessarily contraindicated. The practitioner should understand all of the physical demands of the patient's job position before returning the patient to full duty and should request clarification of the patient's job duties. Clarification should be obtained from the employer or, if necessary, from including, but not limited to, occupational health nurse, physical therapist, occupational therapist, vocational rehabilitation specialist, an industrial hygienist, chiropractor or another professional. American Medical Association clarifies "disability" as "activity limitations and/or participation restrictions in an individual with a health condition, disorder or disease" versus

"impairment" as "a significant deviation, loss, or loss of use of any body structure or body function in an individual with a health condition, disorder or disease".

13. Delayed Recovery. Within the discretion of the treating physician, strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after initiation of treatment of an injury. The OWCA recognizes that 3 to 10 percent of all industrially injured patients will not recover within the timelines outlined in this document despite optimal care. Such individuals may require treatments beyond the limits discussed within this document, but such treatment requires clear documentation by the authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

14. Guideline Recommendations and Inclusion of Medical Evidence. All recommendations are based on available evidence and/or consensus judgment. It is generally recognized that early reports of a positive treatment effect are frequently weakened or overturned by subsequent research. Per R.S. 1203.1, when interpreting medical evidence statements in the guideline, the following apply to the strength of recommendation.

Strong	Level 1 Evidence	We Recommend
Moderate	Level 2 and Level 3 Evidence	We Suggest
Weak	Level 4 Evidence	Treatment is an Option
Inconclusive	Evidence is Either Insufficient of Conflicting	

a. …

15. Treatment of Pre-Existing Conditions The conditions that preexisted the work injury/disease will need to be managed under two circumstances: (a) A pre-existing condition exacerbated by a work injury/disease should be treated until the patient has returned to their objectively verified prior level of functioning or Maximum Medical Improvement (MMI); and (b) A pre-existing condition not directly caused by a work injury/disease but which may prevent recovery from that injury should be treated until its objectively verified negative impact has been controlled. The focus of treatment should remain on the work injury/disease.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1655 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1135 (June 2014), LR 46:

§2017. Initial Diagnostic Procedures

A. …

1. History-taking and physical examination (Hx and PE) are generally accepted, well-established and widely used procedures that establish the foundation/basis for and dictates subsequent stages of diagnostic and therapeutic procedures. List of medications patient is taking should be included in every history, including over the counter medicines as well as supplements. When findings of clinical evaluations and those of other diagnostic procedures are not complementing each other, the objective clinical findings should have preference. The medical records should reasonably document the following.

a. History of Present Injury—a detailed history, taken in temporal proximity to the time of injury should primarily guide evaluation and treatment. The history should include pertinent positive and negative information regarding the following:

i. …

ii. location of pain, nature of symptoms, and alleviating/exacerbating factors (e.g., sitting tolerance). The history should include both the primary and secondary complaints (e.g., primary low back pain, secondary hip, groin). The use of a patient completed pain drawing, such as Visual Analog Scale (VAS), is highly recommended, especially during the first two weeks following injury to assure that all work related symptoms are addressed;

a.iii. - b.vi. …

c. Physical Examination—should include accepted tests and exam techniques applicable to the area being examined, including:

i. general and visual inspection, including posture, stance, balance and gait;

1.c.ii. - 3.e. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1656 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1136 (June 2014), LR 46:

§2019. Follow-Up Diagnostic Imaging and Testing Procedures

A. - B. …

C. Magnetic resonance imaging (MRI), myelography, or computed axial tomography (CT) scanning following myelography, and other imaging procedures and testing may provide useful information for many spinal disorders. When a diagnostic procedure, in conjunction with clinical information, can provide sufficient information to establish an accurate diagnosis, the second diagnostic procedure will become a redundant procedure. At the same time, a subsequent diagnostic procedure can be a complementary diagnostic procedure if the first or preceding procedures, in conjunction with clinical information, cannot provide an accurate diagnosis. Usually, preference of a procedure over others depends upon availability, a patient's tolerance, and/or the treating practitioner's familiarity with the procedure. Subsequent MRI may be indicated with a change in neurological exam, change in symptoms or a contemplated surgical intervention.

1. Imaging studies are generally accepted, well-established and widely used diagnostic procedures. In the absence of myelopathy, or neurological changes, or history of cancer, imaging usually is not appropriate until conservative therapy has been tried and failed. Six to eight weeks of treatment are usually an adequate period of time before an imaging procedure is in order, but the clinician should use judgment in this regard. When indicated, imaging studies can be utilized for further evaluation of the low back, based upon the mechanism of injury, symptoms, and patient history. Prudent choice of a single diagnostic procedure, a complementary combination of procedures, or a proper sequential order of complementary procedures will help

ensure maximum diagnostic accuracy and minimize adverse effect to the patient. When the findings of the diagnostic imaging and testing procedures are not consistent with the clinical examination, the clinical findings should have preference. There is good evidence that in the asymptomatic population, disc bulges, annular tears, or high intensity zone areas, and disc height loss are prevalent 40 to 60 percent of the time depending on the condition, study, and age of the patient. Therefore, the existence of these anatomic findings should not be considered relevant without physiologic and clinical correlation in an individual patient. The studies below are listed in frequency of use, not importance:

a. - h. …

2. Other Tests. The following diagnostic procedures in this subsection are listed in alphabetical order, not by importance:

a. Electrodiagnostic Testing

i. - vi. …

b. Injections – Diagnostic

i. Spinal Diagnostic Injections. Diagnostic spinal injections are commonly used in patients and they usually have been performed previously in the acute or subacute stage. They may rarely be necessary for aggravations of low back pain. Refer to the OWCA Low Back Pain Medical Treatment Guideline for indications.

ii. Diagnostic peripheral nerve blocks such as medial branch facet nerves (lumbar), sacral lateral branches of sacroiliac joints, selective nerve root blocks and transforaminal epidural injections and other pure sensory nerves suspected of causing pain, also include diagnostic facet joint injection as a diagnostic block. Images are required to be saved to verify needle placement.

iii. Medial branch facet blocks (lumbar, indicated if there is demonstration of tenderness over the facet joints or pain on the facet loading maneuvers,) and sacral lateral branch blocks, if provide 80 percent or more pain reduction as measured by a numerical pain index scale within one hour of the medial branch blocks up to three levels per side, then rhizotomy of the medial branch nerves, up to four nerves per side, may be done without confirmation block. If the initial set of medial branch blocks provides less than 80 percent but at least 50 percent pain reduction as measured by a numerical pain index scale or documented functional improvement, the medial branch block should be repeated for confirmation before a rhizotomy is performed. If 50 percent or greater pain reduction is achieved as measured by the NPIS with two sets of medial branch blocks for facet joint pain, then rhizotomy may be performed. Images are required to be saved to verify needle placement.

iv. In general, relief should last for at least the duration of the local anesthetic used and should significantly result in functional improvement and relief of pain. Refer to Injections-Spinal Therapeutic for information on other specific therapeutic injections.

(a). Description. Diagnostic spinal injections are generally accepted, well-established procedures. These injections may be useful for localizing the source of pain, and may have added therapeutic value when combined with injection of therapeutic medication(s). Each diagnostic injection has inherent risks, and risk versus benefit should always be evaluated when considering injection therapy.

(b). Indications. Since these procedures are invasive, less invasive or non-invasive procedures should be considered first. Selection of patients, choice of procedure, and localization of the level for injection should be determined by clinical information indicating strong suspicion for pathologic condition(s) and the source of pain symptoms. Because injections are invasive with an inherent risk, the number of diagnostic procedures should be limited in any individual patient to those most likely to be primary pain generators. Patients should not receive all of the diagnostic blocks listed merely in an attempt to identify 100 percent of the pain generators.

(c). The interpretation of the test results are primarily based on functional change, symptom report, and pain response (via a recognized pain scale), before and at an appropriate time period after the injection. The diagnostic significance of the test result should be evaluated in conjunction with clinical information and the results of other diagnostic procedures. Injections with local anesthetics of differing duration may be used to support a diagnosis. In some cases, injections at multiple levels may be required to accurately diagnose low back pain.

(i). It is obligatory that sufficient data be accumulated by the examiner performing this procedure such that the diagnostic value of the procedure be evident to other reviewers. This entails, at a minimum, documentation of patient response immediately following the procedure with details of any symptoms with a response and the degree of response. Responses must be identified as to specific body part (e.g., low back, leg pain). The practitioner must identify the local anesthetic used and the expected duration of response for diagnostic purposes.

(ii). Multiple injections provided at the same session without staging may seriously dilute the diagnostic value of these procedures. Practitioners must carefully weigh the diagnostic value of the procedure against the possible therapeutic value.

(d). Special Requirements for Diagnostic Injections. Since multi-planar fluoroscopy during procedures is required to document technique and needle placement, an experienced physician should perform the procedure. Permanent images are required to verify needle placement. The subspecialty disciplines of the physicians performing the injections may be varied, including, but not limited to: anesthesiology, radiology, surgery, neurology or physiatry. The practitioner should document hands-on training through workshops and/or completed fellowship training with interventional training. They must also be knowledgeable in radiation safety.

(e). Complications. General complications of diagnostic injections may include transient neurapraxia, nerve injury, infection, headache, urinary retention, and vasovagal effects, as well as epidural hematoma, permanent neurologic damage, dural perforation, and CSF leakage, and spinal meningeal abscess. Permanent paresis, anaphylaxis, and arachnoiditis have been rarely reported with the use of epidural steroids.

(f). Contraindications

(i). Absolute contraindications to diagnostic injections include: bacterial infection-systemic or localized to region of injection; bleeding diatheses; hematological conditions; and possible pregnancy;

(ii). Relative contraindications to diagnostic injections may include: allergy to contrast, poorly controlled diabetes mellitus and hypertension;

(iii). Drugs affecting coagulation may require restriction from use. Anti-platelet therapy and anti-coagulations should be addressed individually by a knowledgeable specialist. It is recommended to refer to the American Society of Regional Anesthesia for anticoagulation guidelines.

(g). Specific Diagnostic Injections. In general, relief should last for at least the duration of the local anesthetic used and should significantly relieve pain and result in functional improvement. Refer to "Injections – Therapeutic" for information on specific therapeutic injections.

(i). Lumbar Medial Branch Facet Blocks and Sacral Lateral Branch Blocks. If the block provides 80 percent or more pain reduction as measured by a numerical pain index scale within one hour of the medial branch blocks up to three levels per side, then rhizotomy of the medial branch nerves, up to four nerves per side, may be done without confirmation block. If the initial set of medial branch blocks provides less than 80 percent but at least 50 percent pain reduction as measured by a numerical pain index scale or documented functional improvement, the medial branch block should be repeated for confirmation before a rhizotomy is performed. If 50 percent or greater pain reduction is achieved as measured by the NPIS with two sets of medial branch blocks for facet joint pain, then rhizotomy may be performed.

[a]. Frequency and Maximum Duration: May be repeated once for comparative blocks. Limited to four levels

(ii). Transforaminal injections/spinal selective nerve block (SSNB) are generally accepted and useful in identifying spinal pathology. When performed for diagnosis, small amounts of local anesthetic up to a total volume of 1.0 cc should be used to determine the level of nerve root irritation. A positive diagnostic block should result in a positive diagnostic functional benefit and a 50 percent reduction in nerve-root generated pain appropriate for the anesthetic used as measured by accepted pain scales (such as a VAS).

[a]. Time to Produce Effect: less than 30 minutes for local anesthesia; corticosteroids up to 72 hours for most patients.

[b]. Frequency and Maximum Duration: once per suspected level. Limited to two levels

(iii). Zygapophyseal (Facet) Blocks. Facet blocks are generally accepted but should not be considered diagnostic blocks for the purposes of determining the need for a rhizotomy (radiofrequency medial branch neurotomy), nor should they be done with medial branch blocks. These blocks should not be considered a definitive diagnostic tool. They may be used diagnostically to direct functional rehabilitation programs. A positive diagnostic block should result in a positive diagnostic functional benefit and a 50 percent reduction in pain appropriate for the anesthetic used as measured by accepted pain scales (such as a VAS). They then may be repeated per the therapeutic guidelines when they are accompanied by a functional rehabilitation program. (Refer to Therapeutic Spinal Injections).

[a]. Time to Produce Effect: Less than 30 minutes for local anesthesia; corticosteroids up to 72 hours for most patients;

[b]. Frequency and Maximum Duration: Once per suspected level, limited to two levels.

(iv). Sacroiliac Joint Injection. A generally accepted Injection of local anesthetic in an intra-articular fashion into the sacroiliac joint under fluoroscopic guidance. Long-term therapeutic effect has not yet been established. Indications: Primarily diagnostic to rule out sacroiliac joint dysfunction versus other pain generators. Intra-articular injection can be of value in diagnosing the pain generator. There should be documented relief from previously painful maneuvers (e.g., Patrick's test) and at least 50 percent pain relief on post-injection physical exam (as measured by accepted pain scales such as a VAS) correlated with functional improvement. Sacroiliac joint blocks should facilitate functionally directed rehabilitation programs.

[a]. Time to Produce Effect: Up to 30 minutes for local anesthetic;

[b]. Frequency and Maximum Duration: 1.

c. Personality/ Psychological/ Psychiatric/ Psychosocial Evaluation. These are generally accepted and well-established diagnostic procedures with selective use in the low back population, but have more widespread use in subacute and chronic low back populations. Diagnostic testing procedures may be useful for patients with symptoms of depression, delayed recovery, chronic pain, recurrent painful conditions, disability problems, and for preoperative evaluation. Psychological/psychiatric /psychosocial and measures have been shown to have predictive value for postoperative response, and therefore should be strongly considered for use pre-operatively when the surgeon has concerns about the relationship between symptoms and findings, or when the surgeon is aware of indications of psychological complication or risk factors for psychological complication (e.g. childhood psychological trauma). Psychological testing should provide differentiation between pre-existing conditions versus injury caused psychological conditions, including depression and posttraumatic stress disorder. Psychological testing should incorporate measures that have been shown, empirically, to identify comorbidities or risk factors that are linked to poor outcome or delayed recovery.

i. Formal psychological or psychosocial evaluation should be performed on patients not making expected progress within 6 to 12 weeks following injury and whose subjective symptoms do not correlate with objective signs and test results. In addition to the customary initial exam, the evaluation of the injured worker should specifically address the following areas:

(a).- (f). …

(g). risk factors and psychological comorbidities that may influence outcome and that may require treatment;

(h). childhood history, including history of childhood psychological trauma, abuse and family history of disability.

ii. Personality/ psychological/ psychiatric / psychosocial evaluations consist of two components, clinical interview and psychological testing. Results should help clinicians with a better understanding of the patient in a number of ways. Thus, the evaluation result will determine the need for further psychosocial interventions; and in those cases, Diagnostic and Statistical Manual of Mental Disorders (DSM) diagnosis should be determined and documented. The evaluation should also include examination of both psychological comorbidities and psychological risk factors that are empirically associated with poor outcome and/or delayed recovery. An individual with a Ph.D., Psy.D, or psychiatric M.D./D.O. credentials should perform initial evaluations, which are generally completed within one to two hours. A professional fluent in the primary language of the patient is preferred. When such a provider is not available, services of a professional language interpreter should be provided.

(a). Frequency: one-time visit for the clinical interview. If psychometric testing is indicated as a part of the initial evaluation, time for such testing should not exceed an additional nine hours of professional time.

(b). Clinical Evaluation. At the discretion of the evaluating physician, clinical evaluation may address the following areas:

(i). History of Injury. The history of the injury should be reported in the patient's words or using similar terminology. Caution must be exercised when using translators.

[a]. nature of injury;

[b]. psychosocial circumstances of the injury;

[c]. current symptomatic complaints;

[d]. extent of medical corroboration;

[e]. treatment received and results;

[f]. compliance with treatment;

[g]. coping strategies used, including perceived locus of control;

[h]. perception of medical system and employer;

[i]. history of response to prescription medications.

(ii). Health History

[a]. nature of injury;

[b]. medical history;

[c]. psychiatric history;

[d]. history of alcohol or substance abuse;

[e]. activities of daily living;

[f]. mental status exam;

[g]. previous injuries, including disability, impairment, and compensation

(iii). Psychosocial History

[a]. childhood history, including abuse;

[b]. educational history;

[c]. family history, including disability;

[d]. marital history and other significant adulthood activities and events;

[e]. legal history, including criminal and civil litigation;

[f]. employment and military history;

[g]. signs of pre-injury psychological dysfunction;

[h]. current interpersonal relations, support, living situation;

[i]. financial history.

(iv). Psychological test results, if performed.

(v). Danger to self or others.

(vi). Current psychiatric diagnosis consistent with the standards of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

(vii). Pre-existing psychiatric conditions. Treatment of these conditions is appropriate when the pre-existing condition affects recovery from pain.

(viii). Causality (to address medically probable cause and effect, distinguishing pre-existing psychological symptoms, traits and vulnerabilities from current symptoms).

(ix). Treatment recommendations with respect to specific goals, frequency, timeframes, and expected outcomes.

(c). Tests of Psychological Functioning. Psychometric testing is a valuable component of a consultation to assist the physician in making a more effective treatment plan. Psychometric testing is useful in the assessment of mental conditions, pain conditions, cognitive functioning, treatment planning, vocational planning, and evaluation of treatment effectiveness. There is no general agreement as to which standardized psychometric tests should be specifically recommended for psychological evaluations of pain conditions. It is appropriate for the mental health provider to use their discretion and administer selective psychometric tests within their expertise and within standards of care in the community. Some of these tests are available in Spanish and other languages, and many are written at a sixth grade reading level. Examples of frequently used psychometric tests performed include, but not limited to, the following.

(i). Comprehensive Inventories for Medical Patients

[a]. Battery for Health Improvement, 2nd Edition (BHI-2). What it measures: depression, anxiety and hostility; violent and suicidal ideation; borderline, dependency, maladjustment, substance abuse, conflicts with work, family and physician, pain preoccupation, somatization, perception of functioning and others. Benefits: when used as a part of a comprehensive evaluation, can contribute substantially to the understanding of psychosocial factors underlying pain reports, perceived disability, somatic preoccupation, and help to design interventions. Serial administrations can track changes in a broad range of variables during the course of treatment, and assess outcome.

[b]. Millon Behavioral Medical Diagnostic (MBMD). What it measures - updated version of the Millon Behavioral Health Inventory (MBHI). Provides information on coping styles (introversive, inhibited, dejected, cooperative, sociable, etc), health habits (smoking, drinking, eating, etc.), psychiatric indications (anxiety, depression, etc), stress moderators (illness apprehension vs. illness

tolerance, etc), treatment prognostics (interventional fragility vs. interventional resilience, medication abuse vs. medication competence, etc) and other factors. Benefits: when used as a part of a comprehensive evaluation, can contribute substantially to the understanding of psychosocial factors affecting medical patients. Understanding risk factors and patient personality type can help to optimize treatment protocols for a particular patient.

[c]. Pain Assessment Battery (PAB). What it measures: collection of four separate measures that are administered together. Emphasis on the assessment of pain, coping strategies, degree and frequency of distress, health-related behaviors, coping success, beliefs about pain, quality of pain experience, stress symptoms analysis, and others. Benefits: when used as a part of a comprehensive evaluation, can contribute substantially to the understanding of patient stress, pain reports and pain coping strategies, and help to design interventions. Serial administrations can track changes in measured variables during the course of treatment, and assess outcome.

(d). Comprehensive Psychological Inventories. These tests are designed for detecting various psychiatric syndromes, but in general are more prone to false positive findings when administered to medical patients.

(i). Millon Clinical Multiaxial Inventory, 3rd Edition (MCMI-III). What it measures: has scales based on DSM diagnostic criteria for affective, personality, and psychotic disorders and somatization. Benefits: when used as a part of a part of a comprehensive evaluation, can screen for a broad range of DSM diagnoses.

(ii). Minnesota Multiphasic Personality Inventory, 2nd Edition (MMPI-2). What it measures: original scale constructs, such as hysteria and psychesthenia are archaic but continue to be useful. Newer content scales include depression, anxiety, health concerns, bizarre mentation, social discomfort, low self-esteem, and almost 100 others. Benefits: when used as a part of a comprehensive evaluation, measure a number of factors that have been associated with poor treatment outcome.

(iii). Personality Assessment Inventory (PAI). What it measures - a good measure of general psychopathology. Measures depression, anxiety, somatic complaints, stress, alcohol and drug use reports, mania, paranoia, schizophrenia, borderline, antisocial, and suicidal ideation and more than 30 others. Benefits: when used as a part of a comprehensive evaluation, can contribute substantially to the identification of a wide variety of risk factors that could potentially affect the medical patient.

(e). Brief Multidimensional Screens for Medical Patients. Treating providers, to assess a variety of psychological and medical conditions, including depression, pain, disability and others, may use brief instruments. These instruments may also be employed as repeated measures to track progress in treatment, or as one test in a more comprehensive evaluation. Brief instruments are valuable in that the test may be administered in the office setting and hand scored by the physician. Results of these tests should help providers distinguish which patients should be referred for a specific type of comprehensive evaluation.

(i). Brief Battery for Health Improvement, 2nd Edition (BBHI-2). What it measures: depression, anxiety, somatization, pain, function, and defensiveness. Benefits: can identify patients needing treatment for depression and anxiety, and identify patients prone to somatization, pain magnification and self-perception of disability. Can compare the level of factors above to other pain patients and community members. Serial administrations can track changes in measured variables during the course of treatment, and assess outcome.

(ii). Multidimensional Pain Inventory (MPI). What it measures: interference, support, pain severity, life-control, affective distress, response of significant other to pain, and self-perception of disability at home and work, and in social and other activities of daily living. Benefits: can identify patients with high levels of disability perceptions, affective distress, or those prone to pain magnification. Serial administrations can track changes in measured variables during the course of treatment, and assess outcome.

(iii). Pain Patient Profile (P3). What it measures: Assesses depression, anxiety, and somatization. Benefits: Can identify patients needing treatment for depression and anxiety, as well as identify patients prone to somatization. Can compare the level of depression, anxiety and somatization to other pain patients and community members. Serial administrations can track changes in measured variables during the course of treatment, and assess outcome.

(iv). SF-36. What it measures: a survey of general health well-being and functional states. Benefits: assesses a broad spectrum of patient disability reports. Serial administrations could be used to track patient perceived functional changes during the course of treatment, and assess outcome.

(v). Sickness Impact Profile (SIP). What it measures: perceived disability in the areas of sleep, eating, home management, recreation, mobility, body care, social interaction, emotional behavior, and communication. Benefits: assesses a broad spectrum of patient disability reports. Serial administrations could be used to track patient perceived functional changes during the course of treatment, and assess outcome.

(vi). McGill Pain Questionnaire (MPQ). What it measures: cognitive, emotional and sensory aspects of pain. Benefits: can identify patients prone to pain magnification. Repeated administrations can track progress in treatment for pain.

(vii). McGill Pain Questionnaire-Short Form (MPQ-SF). What it measures: emotional and sensory aspects of pain. Benefits: can identify patients prone to pain magnification. Repeated administrations can track progress in treatment for pain.

(viii). Oswestry Disability Questionnaire. What it measures: disability secondary to low back pain. Benefits: can measure patients' self-perceptions of disability. Serial administrations could be used to track changes in self-perceptions of functional ability during the course of treatment, and assess outcome.

(ix). Visual Analog Scales (VAS). What it measures: graphical measure of patient's pain report. Benefits: quantifies the patients' pain report. Serial administrations could be used to track changes in pain reports during the course of treatment and assess outcome.

(f). Brief Multidimensional Screens for Psychiatric Patients. These tests are designed for detecting various psychiatric syndromes, but in general are more prone to false positive findings when administered to medical patients.

(i). Brief Symptom Inventory. What it measures: Somatization, obsessive-compulsive, depression, anxiety, phobic anxiety, hostility, paranoia, psychoticism, and interpersonal sensitivity. Benefits: can identify patients needing treatment for depression and anxiety, as well as identify patients prone to somatization. Can compare the level of depression, anxiety, and somatization to community members. Serial administrations could be used to track changes in measured variables during the course of treatment, and assess outcome.

(ii). Brief Symptom Inventory-18 (BSI-18). What it Measures: depression, anxiety, somatization. Benefits: can identify patients needing treatment for depression and anxiety, as well as identify patients prone to somatization. Can compare the level of depression, anxiety, and somatization to community members. Serial administrations could be used to track patient perceived functional changes during the course of treatment, and assess outcome.

(iii). Symptom Check List 90 (SCL 90). What it measures: Somatization, obsessive-compulsive, depression, anxiety, phobic anxiety, hostility, paranoia, psychoticism, and interpersonal sensitivity. Benefits: Can identify patients needing treatment for depression and anxiety, as well as identify patients prone to somatization. Can compare the level of depression, anxiety and somatization to community members. Serial administrations could be used to track changes in measured variables during the course of treatment, and assess outcome.

(g). Brief Specialized Psychiatric Screening Measures

(i). Beck Depression Inventory (BDI). What it measures: Depression. Benefits: Can identify patients needing referral for further assessment and treatment for depression and anxiety, as well as identify patients prone to somatization. Repeated administrations can track progress in treatment for depression, anxiety, and somatic preoccupation.

(ii). Post Traumatic Stress Diagnostic Scale (PDS). What it Measures: Post Traumatic Stress Disorder (PTSD). Benefits: Helps confirm suspected PTSD diagnosis. Repeated administrations can track treatment progress of PTSD patients.

(iii). Center of Epidemiologic Studies-Depression Questionnaire. What it measures: Depression. Benefits: Brief self-administered screening test. Requires professional evaluation to verify diagnosis.

(iv). Brief Patient Health Questionnaire from PRIME - MD. What it measures: Depression, panic disorder. Benefits: Brief self-administered screening test. Requires professional evaluation to verify diagnosis.

(v). Zung Questionnaire. What it measures: Depression. Benefits: Brief self-administered screening test. Requires professional evaluation to verify diagnosis.

(vi). Diagnostic Studies. Imaging of the spine and/or extremities is a generally accepted, well-established, and widely used diagnostic procedure when specific indications, based on history and physical examination, are present. Physicians should refer to individual OWCA guidelines for specific information about specific testing procedures.

(vii). Radiographic Imaging, MRI, CT, bone scan, radiography, SPECT and other special imaging studies may provide useful information for many musculoskeletal disorders causing pain. Single Photon Emission Computerized Tomography (SPECT). A scanning technique which may be helpful to localize facet joint pathology and is useful in determining which patients are likely to have a response to facet injection. SPECT combines bone scans & CT Scans in looking for facet joint pathology.

(viii). Electrodiagnostic studies may be useful in the evaluation of patients with suspected myopathic or neuropathic disease and may include Nerve Conduction Studies (NCS), Standard Needle Electromyography, or Somatosensory Evoked Potential (SSEP). The evaluation of electrical studies is difficult and should be relegated to specialists who are well trained in the use of this diagnostic procedure.

(ix). Special Testing Procedures may be considered when attempting to confirm the current diagnosis or reveal alternative diagnosis. In doing so, other special tests may be performed at the discretion of the physician.

(x). Testing for complex regional pain syndrome (CRPS-I) or sympathetically maintained pain (SMP) is described in the Complex Regional Pain Syndrome/Reflex Sympathetic Dystrophy Medical Treatment Guidelines.

d. Provocation Discography

i. - vii.(b).(ii).[e].[i].bb. …

3. - 3.a.i. …

b. Functional capacity evaluation (FCE) is a comprehensive or modified evaluation of the various aspects of function as they relate to the worker's ability to return to work. FCEs should not be used as the sole criteria to diagnose malingering. Areas such as endurance, lifting (dynamic and static), postural tolerance, specific range of motion (ROM), coordination and strength, worker habits, employability as well as psychosocial, cognitive, and sensory perceptual aspects of competitive employment may be evaluated. Reliability of patient reports and overall effort during testing is also reported. Components of this evaluation may include: musculoskeletal screen; cardiovascular profile/aerobic capacity; coordination; lift/carrying analysis; job-specific activity tolerance; maximum voluntary effort; pain assessment/psychological screening; and non-material and material handling activities. Standardized national guidelines (such as National Institute for Occupational Safety and Health (NIOSH)) should be used as the basis for FCE recommendations.

i. When an FCE is being used to determine return to a specific jobsite, the provider is responsible for fully understanding the physical demands and the duties of the job

that the worker is attempting to perform. A jobsite evaluation is frequently necessary. A job description should be reviewed by the provider and FCE evaluator prior to this evaluation. FCEs cannot be used in isolation to determine work restrictions. It is expected that the FCE may differ from both self-report of abilities and pure clinical exam findings. The length of a return to work evaluation should be based on the judgment of the referring physician and the provider performing the evaluation. Since return to work is a complicated multidimensional issue, multiple factors beyond functional ability and work demands should be considered and measured when attempting determination of readiness or fitness to return to work. The authorized treating physician must interpret the FCE in light of the individual patient's presentation and medical and personal perceptions. FCEs should not be used as the sole criteria to diagnose malingering.

ii. Depth and breadth of FCE should be assessed on a case-by-case basis and should be determined by tester and/or referring medical professional. In many cases, a work tolerance screening or return to work performance will identify the ability to perform the necessary job tasks. There is some evidence that a short form FCE reduced to a few tests produces a similar predictive quality compared to the longer two-day version of the FCE regarding length of disability and recurrence of a claim after return to work.

(a). Frequency. When the patient is unable to return to the pre-injury condition and further information is desired to determine permanent work restrictions. Prior authorization is required for repeat FCEs.

c. Jobsite Evaluation—a comprehensive analysis of the physical, mental, and sensory components of a specific job. The goal of the Jobsite evaluation is to identify any job modification needed to ensure the safety of the employee upon return to work. These components may include, but are not limited to: postural tolerance (static and dynamic); aerobic requirements; range of motion (ROM); torque/force; lifting/carrying; cognitive demands; social interactions; visual perceptual; sensation; coordination; environmental requirements of a job; repetitiveness; essential job functions; and ergonomic set up. Job descriptions provided by the employer are helpful but should not be used as a substitute for direct observation.

i. …

ii. Requests for a jobsite evaluation should describe the expected goals for the evaluation. Goals may include, but are not limited to the following:

(a). - (d). …

(e). to give detailed work/activity restrictions.

(i). Frequency—one time with additional visits as needed for follow-up per jobsite.

iii. Jobsite evaluation and alteration should include input from a health care professional with experience in ergonomics or a certified ergonomist, the employee, and the employer. The employee must be observed performing all job functions in order for the jobsite evaluation to be a valid representation of a typical workday. If the employee is unable to perform the job function for observation, a co-worker in an identical job position may be observed instead. Periodic follow-up is recommended to assess the effectiveness of the intervention and need for additional ergonomic changes.

d. Vocational Assessment. The vocational assessment should provide valuable guidance in the determination of future rehabilitation program goals. It should clarify rehabilitation goals, which optimize both patient motivation and utilization of rehabilitation resources. If prognosis for return to former occupation is determined to be poor, except in the most extenuating circumstances, vocational assessment should be implemented within 3 to 12 months post-injury. Declaration of Maximum Medical Improvement (MMI) should not be delayed solely due to lack of attainment of a vocational assessment.

i. …

e. Work Tolerance Screening (Fitness for Duty) - a determination of an individual's tolerance for performing a specific job as based on a job activity or task and may be used when a full Functional Capacity Evaluation is not indicated. It may include a test or procedure to specifically identify and quantify work-relevant cardiovascular, physical fitness and postural tolerance. It may also address ergonomic issues affecting the patient's return-to-work potential.

i. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1658 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1137 (June 2014), LR 46:

§2021. Therapeutic Procedures—Non-Operative

A. All treatment plans begin with shared decision making with the patient. Before initiation of any therapeutic procedure, an authorized treating healthcare provider, employer, and insurer should consider these important issues in the care of the injured worker.

B. …

C. Second, cessation and/or review of treatment modalities should be undertaken when no further significant subjective or objective improvement in the patient's condition is noted.

1. Reassessment of the patient's status in terms of functional improvement should be documented after each treatment. If patients are not responding within the recommended time periods, alternative treatment interventions, further diagnostic studies or specialist and/or surgeon consultations should be pursued. Continued treatment should be monitored using objective measures such as:

a. …

b. fewer restrictions at work or performing activities of daily living (ADL);

c. decrease in usage of medications; related to the work injury; and

d. measurable functional gains, such as increased range of motion, documented increase in strength;, increased ability to stand, sit or lift, or patient completed functional evaluations.

D. - F. …

G. Non-operative treatment procedures for low back pain can be divided into two groups: conservative care and rehabilitation. Conservative care is treatment applied to a

problem in which spontaneous improvement is expected in 90 percent of the cases within three months. It is usually provided during the tissue-healing phase and lasts no more than six months, and often considerably less. Rehabilitation is treatment applied to a more chronic and complex problem in a patient with de-conditioning and disability. It is provided during the period after tissue healing to obtain maximal medical recovery. Treatment modalities may be utilized sequentially or concomitantly depending on chronicity and complexity of the problem, and anticipated therapeutic effect. Treatment plans should always be based on a diagnosis utilizing appropriate diagnostic procedures.

H. The following procedures are listed in alphabetical order.

1. Acupuncture

a. Acupuncture: the insertion and removal of filiform needles to stimulate acupoints (acupuncture points). Needles may be inserted, manipulated, and retained for a period of time. Acupuncture can be used to reduce pain, reduce inflammation, increase blood flow, increase range of motion, decrease the side effect of medication-induced nausea, promote relaxation in an anxious patient, and reduce muscle spasm.

a.i. - b.i. …

c. Total Time Frames for Acupuncture and Acupuncture with Electrical Stimulation: Time frames are not meant to be applied to each of the above sections separately. The time frames are to be applied to all acupuncture treatments regardless of the type or combination of therapies being provided.

i. - iii. …

iv. maximum duration: 14 treatments within six months.

(a). …

2. Biofeedback. A form of behavioral medicine that helps patients learn self-awareness and self-regulation skills for the purpose of gaining greater control of their physiology, such as muscle activity, brain waves, and measures of autonomic nervous system activity. Electronic instrumentation is used to monitor the targeted physiology and then displayed or fed back to the patient visually, auditorially, or tactilely, with coaching by a biofeedback specialist. Biofeedback is provided by clinicians certified in biofeedback and/or who have documented specialized education, advanced training, or direct or supervised experience qualifying them to provide the specialized treatment needed (e.g., surface EMG, EEG, or other). There is good evidence that biofeedback or relaxation therapy is equal in effect to cognitive behavioral therapy for low back pain. There is good evidence that cognitive behavioral therapy, but not behavioral therapy (e.g., biofeedback), shows weak to small effects in reducing pain and small effects on improving disability, mood, and catastrophizing in patients.

a. …

b. Indications for biofeedback include individuals who are suffering from musculoskeletal injury in which muscle dysfunction or other physiological indicators of excessive or prolonged stress response affects and/or delays recovery. Other applications include training to improve self-management of emotional stress/pain responses such as anxiety, depression, anger, sleep disturbance, and other central and autonomic nervous system imbalances. Biofeedback is often used in conjunction with other treatment modalities.

i. - iii. …

iv. maximum duration: 10 to 12 sessions. Treatment beyond 12 sessions must be documented with respect to need, expectation, and ability to facilitate functional gains.

3. Injections - Therapeutic

a. …

i. Special Considerations. For all injections (excluding trigger point), multi-planar fluoroscopic guidance during procedures is required to document technique and needle placement, and should be performed by a physician experienced in the procedure. Permanent images are required to verify needle replacement.

ii. - iii.(a). …

b. Epidural Steroid Injection (ESI)

i. - iii.(c). …

iv. Timing/Frequency/Duration

(a). Epidural injections may be used for radicular pain or radiculopathy. If an injection provides at least 50 percent relief, a repeat of the same pain relieving injection may be given at least two weeks apart with fluoroscopic guidance. No more than two levels may be injected in one session. If there is not a minimum of 50 percent pain reduction as measured by a numerical pain index scale and documented functional improvement, similar injections should not be repeated, although the practitioner may want to consider a different approach or different level depending on the pathology. Maximum of two series (six months apart) of three effective pain relieving injections may be done in one year based upon the patient's response to pain and function.

(b). Spinal Stenosis Patients:

(i). Patients with claudication: The patient has documented spinal stenosis, has attempted active therapy, has persistent claudication symptoms and difficulty with some activities, thus meeting criteria for surgical intervention. The patient may have diagnostic injection as indicated. Patients who have any objective neurologic findings should proceed as the above patient with radicular findings for whom an early surgical consultation is recommended including indirect or direct decompression. Refer to C.1. Those who have mild claudication, or moderate or severe claudication and who do not desire surgery, may continue to receive additional injections if the original diagnostic intervention was successful per guideline standards.

c. Zygapophyseal (Facet) Injection

i. Description—an accepted intra-articular or pericapsular injection of local anesthetic and corticosteroid with very limited uses. Up to three joints. Either unilaterally or bilaterally. Injections may be repeated only. when there is 50 percent initial improvement in pain scales as measured by accepted pain scales (such as VAS), and a functional documented response lasts for three months. An example of a positive result would include a return to baseline function as established at MMI, return to increased work duties, or a measurable improvement in physical activity goals including retrun to baseline after an exacerbation. Injections may only be repeated when these functional and time goals are met

and verified. May be repeated up to two times a year. There is no justification for a combined facet and medial branch block. Monitored Anesthesia Care is accepted for diagnostic and therapeutic procedures.

ii. Indications—patients with pain suspected to be facet in origin based on exam findings and affecting activity; or, patients who have refused a rhizotomy; or, patients who have facet findings with a thoracic component. In these patients, facet injections may be occasionally useful in facilitating a functionally-directed rehabilitation program and to aid in identifying pain generators. Patients with recurrent pain should be evaluated with more definitive diagnostic injections, such as medial nerve branch injections, to determine the need for a rhizotomy. Facet injections are not likely to produce long-term benefit by themselves and are not the most accurate diagnostic tool.

d. Sacroiliac Joint Injection

i. Description—a generally accepted injection of local anesthetic in an intra-articular fashion into the sacroiliac joint under fluoroscopic guidance. May include the use of corticosteroids. Sacroiliac joint injections may be considered either unilaterally or bilaterally. The injection may only be repeated with 50 percent improvement in Visual Analog Scale with documented functional improvement. For Sacroiliac Joint (lateral Branch Neurotomy), the diagnostic S1-S3 lateral branch blocks would need to be documented with 80 percent to 100 percent improvement in symptoms for the duration of the local anesthetic. Should the diagnostic lateral branch nerve blocks only result in 50 percent to 80 percent improvement in symptoms then the confirmatory nerve blocks are recommended. In the event that the diagnostic lateral nerve blocks result in less than 50 percent improvement, then the lateral branch neurotomy is not recommended. SI Joint fusion can be considered if multiple SI joint injections or RF Sacral Lateral Branches are ineffective to maintain function. Monitored Anesthesia Care is accepted for diagnostic and therapeutic procedures.

ii. …

iii. Timing/Frequency/Duration

(a). Frequency and optimum duration: two to three injections per year. If the first injection does not provide a diagnostic response of temporary and sustained pain relief substantiated by accepted pain scales, (i.e.,50 percent pain reduction substantiated by tools such as VAS), and improvement in function, similar injections should not be repeated. At least six weeks of functional benefit should be obtained with each therapeutic injection.

(b). Maximum duration: three injections per year.

e. Intradiscal Steroid Therapy

i. …

f. Radio Frequency (RF)—Medial Branch Neurotomy/Facet Denervation

i. Description—a procedure designed to denervate the facet joint (Thoracic and Lumbar) by ablating the corresponding sensory medial branches. Percutaneous radiofrequency is the method generally used. Pulsed radiofrequency at 42 degrees C should not be used as it may result in incomplete denervation. Cooled radiofrequency is generally not recommended due to current lack of evidence.

(a). If the medial branch blocks provide 80 percent or more pain reduction as measured by a numerical pain index scale within one hour of the medial branch blocks, then rhizotomy of the medial branch nerves, up to four nerves per side, may be done. If the first medial branch block provides less than 80 percent but at least 50 percent pain reduction as measured by a numerical pain index scale or documented functional improvement, the medial branch block should be repeated before a rhizotomy is performed. If 50 percent or greater pain reduction is achieved with two sets of medial branch blocks for facet joint pain, then rhizotomy may be performed.

(b). Generally, RF pain relief lasts at least six months and repeat radiofrequency neurotomy can be successful and last longer. RF neurotomy is the procedure of choice over alcohol, phenol, or cryoablation. Permanent images should be recorded to verify placement of the needles.

ii. Needle placement: multi-planar fluoroscopic imaging is required for all injections.

iii. Indications—those patients with proven, significant, facetogenic pain by medial branch block (as defined previously). This procedure is not recommended for patients with multiple pain generators except in those cases where the facet pain is deemed to be greater than 50 percent of the total pain in the given area.

iv. All patients should continue appropriate exercise with functionally directed rehabilitation. Active treatment, which patients will have had prior to the procedure, will frequently require a repeat of the sessions that may have been previously ordered prior to the facet treatment (Refer to Therapy-Active).

v. Complications-bleeding, infection, or neural injury. The clinician must be aware of the risk of developing a localized neuritis, or rarely, a deafferentation centralized pain syndrome as a complication of this and other neuroablative procedures.

vi. Post-Procedure Therapy-active therapy. Implementation of a gentle aerobic reconditioning program (e.g., walking) and back education within the first post-procedure week, barring complications. Instruction and participation in a long-term home-based program of ROM, core strengthening, postural or neuromuscular re-education, endurance, and stability exercises should be accomplished over a period of four to ten visits post-procedure.

vii. Requirements for Repeat Radiofrequency Medial Branch Neurotomy (or other peripheral nerve ablation). In some cases pain may recur. Successful RF neurotomy usually provides from six to eighteen months of relief.

(a). Before a repeat RF neurotomy is done, a confirmatory medial branch injection or diagnostic nerve block should be performed if the patient's pain pattern presents differently than the initial evaluation. In occasional patients, additional levels of medial branch blocks and RF neurotomy may be necessary. The same indications and limitations apply.

g. Radio Frequency Denervation—Sacro-iliac (SI) joint. This procedure requires neurotomy of multiple nerves, such as L5 dorsal ramus, and/or lateral branches of S1-S3 under C-arm fluoroscopy.

i. Needle Placement: Multi-planar fluoroscopic imaging is required. Permanent images are suggested to verify needle placement.

ii. Indications

(a). The patient has physical exam findings of at least three positive physical exam maneuvers (e.g., Patrick's sign, Faber's test, Gaenslen distraction or gapping, or compression test). Insufficient functional progress during an appropriate program that includes active therapy and/or manual therapy.

(b). For sacroiliac joint (lateral branch neurotomy), the diagnostic S1-S3 lateral branch blocks would need to be documented with 80 percent to 100 percent improvement in symptoms for the duration of the local anesthetic. Should the diagnostic lateral branch nerve blocks only result in 50 percent to 80 percent improvement in symptoms then the confirmatory nerve blocks are recommended. In the event that the diagnostic lateral nerve blocks result in less than 50 percent improvement, then the lateral branch neurotomy is not recommended. SI Joint fusion can be considered for those unable to return to function due to with SI injections or RF sacral lateral branches.

iii. Complications: damage to sacral nerve roots—issues with bladder dysfunction etc. Bleeding, infection, or neural injury. The clinician must be aware of the risk of developing a localized neuritis, or rarely, a deafferentation centralized pain syndrome as a complication of this and other neuroablative procedures.

iv. Post-Procedure Therapy—active therapy: implementation of a gentle aerobic reconditioning program (e.g., walking) and back education within the first post-procedure week, barring complications. Instruction and participation in a long-term home-based program of ROM, core strengthening, postural or neuromuscular re-education, endurance, and stability exercises should be accomplished over a period of 4 to 10 visits post-procedure.

v. Requirements for Repeat Radiofrequency SI Joint Neurotomy. In some cases, pain may recur. Successful RF neurotomy usually provides from 6 to 18 months of relief. Repeat neurotomy should only be performed if the initial procedure resulted in improved function for six months. There is no need for repeat Sacroiliac joint or lateral branch injection before RF. SI Joint fusion can be considered for those unable to return to function due to RF Sacral Lateral Branches that no longer last for six months.

h. Trigger Point Injections

i. Description. Trigger point injections are generally accepted treatment. Trigger point treatment can consist of injection of local anesthetic, with or without corticosteroid, into highly localized, extremely sensitive bands of skeletal muscle fibers. These muscle fibers produce local and referred pain when activated. Medication is injected in a four-quadrant manner in the area of maximum tenderness. Injection can be enhanced if treatments are immediately followed by myofascial therapeutic interventions, such as vapo-coolant spray and stretch, ischemic pressure massage (myotherapy), specific soft tissue mobilization and physical modalities. There is conflicting evidence regarding the benefit of trigger point injections. There is no evidence that injection of medications improves the results of trigger-point injections. Needling alone may account for some of the therapeutic response of injections. Needling must be performed by practitioners with the appropriate credentials in accordance with state and other applicable regulations.

(a). Conscious sedation for patients receiving trigger point injections may be considered. However, the patient must be alert to help identify the site of the injection.

ii. Indications. Trigger point injections may be used to relieve myofascial pain and facilitate active therapy and stretching of the affected areas. They are to be used as an adjunctive treatment in combination with other treatment modalities such as active therapy programs. Trigger point injections should be utilized primarily for the purpose of facilitating functional progress. Patients should continue in an aggressive aerobic and stretching therapeutic exercise program, as tolerated, while undergoing intensive myofascial interventions. Myofascial pain is often associated with other underlying structural problems. Any abnormalities need to be ruled out prior to injection.

iii. Trigger point injections are indicated in patients with consistently observed, well circumscribed trigger points. This demonstrates a local twitch response, characteristic radiation of pain pattern and local autonomic reaction, such as persistent hyperemia following palpation. Generally, trigger point injections are not necessary unless consistently observed trigger points are not responding to specific, noninvasive, myofascial interventions within approximately a six-week time frame. However, trigger point injections may be occasionally effective when utilized in the patient with immediate, acute onset of pain or in a post-operative patient with persistent muscle spasm or myofascial pain.

iv. Complications. Potential but rare complications of trigger point injections include infection, pneumothorax, anaphylaxis, penetration of viscera, neurapraxia, and neuropathy. If corticosteroids are injected in addition to local anesthetic, there is a risk of local myopathy. Severe pain on injection suggests the possibility of an intraneural injection, and the needle should be immediately repositioned.

v. Timing/Frequency/Duration

(a). **…**

(b). Frequency: no more than four injection sites per session per week for acute exacerbations only to avoid significant post-injection soreness;

(c). Optimum duration/Maximum duration: four sessions per year. Injections may only be repeated when the above functional and time goals are met.

i. - i.i. …

4. - 4.b. …

5. Medications/Pharmacy. Medication use in the treatment of low back injuries is appropriate for controlling acute and chronic pain and inflammation. Use of medications will vary widely due to the spectrum of injuries from simple strains to post-surgical healing. All drugs should be used according to patient needs. A thorough medication history, including use of alternative and over the counter medications, should be performed at the time of the initial visit and updated periodically. Treatment for pain control is initially accomplished with acetaminophen and/or NSAIDs. The patient should be educated regarding the interaction with prescription and over-the-counter medications as well as the contents of over-the-counter herbal products. The following are listed in alphabetical order:

a. - g.ii. …

h. Lofexidine (Lucemyra)

i. Description: Central Alpha 2 Agonist.

ii. Indications: mitigation of opioid withdrawal symptoms to facilitate abrupt opioid discontinuation in adults.

iii. Major Contraindications: severe coronary insufficiency, recent myocardial infarction, cerebrovascular disease, renal failure, marked bradycardia, or prolonged QT Syndrome.

iv. Dosing and Time to Therapeutic Effect: three 0.18mg tablets 4 times a day for 7 days.

v. Major Side Effects: insomnia, orthostatic hypotension, bradycardia, hypotension, dizziness, somnolence, sedation, dry mouth.

vi. Drug Interactions. Any medications that decrease pulse or blood pressure to avoid the risk of excessive bradycardia and hypotension.

vii. Laboratory Monitoring. Monitor ECG in patients with congestive heart failure, bradyarrythmis, hepatic impairment, renal impairment, or patients taking othermedicinal products that lead to QT Prolongation.

6. Occupational Rehabilitation Programs

a. Non-Interdisciplinary. These generally accepted programs are work-related, outcome-focused, individualized treatment programs. Objectives of the program include, but are not limited to, improvement of cardiopulmonary and neuromusculoskeletal functions (strength, endurance, movement, flexibility, stability, and motor control functions), patient education, and symptom relief. The goal is for patients to gain full or optimal function and return to work. The service may include the time-limited use of passive modalities with progression to active treatment and/or simulated/real work.

i. Work Conditioning

(a). - (a).(iv). …

ii. Work Simulation

(a). - (a).(iv). …

(b). Interdisciplinary: programs are well-established treatment for patients with sub-acute and functionally impairing low back pain. They are characterized by a variety of disciplines that participate in the assessment, planning, and/or implementation of an injured worker's program with the goal for patients to gain full or optimal function and return to work. There should be close interaction and integration among the disciplines to ensure that all members of the team interact to achieve team goals. Programs should include cognitive-behavioral therapy as there is good evidence for its effectiveness in patients with chronic low back pain. These programs are for patients with greater levels of disability, dysfunction, de-conditioning and psychological involvement. For patients with chronic pain, refer to the OWCA's Chronic Pain Disorder Medical Treatment Guidelines.

(i). Work Hardening

[a]. - [b].[iv]. …

(ii). Spinal Cord Programs

[a]. …

[b]. This can include a highly structured program involving a team approach or can involve any of the components thereof. The interdisciplinary team should, at a minimum, be comprised of a qualified medical director who is board certified and trained in rehabilitation, a case manager, occupational therapist, physical therapist, psychologist, rehabilitation RN and MD, and therapeutic recreation specialist. As appropriate, the team may also include: rehabilitation counselor, respiratory therapist, social worker, or speech-language pathologist.

[c]. …

7. Orthotics

a. - b. …

c. Lumbar Corsets and Back Belts. There is insufficient evidence to support their use.

7.d. - 12.i.iv. …

13. Therapy—passive. Most of the following passive therapies and modalities are generally accepted methods of care for a variety of work-related injuries. Passive therapy includes those treatment modalities that do not require energy expenditure on the part of the patient. They are principally effective during the early phases of treatment and are directed at controlling symptoms such as pain, inflammation and swelling and to improve the rate of healing soft tissue injuries. They should be used adjunctively with active therapies such as postural stabilization and exercise programs to help control swelling, pain, and inflammation during the active rehabilitation process. Please refer to General Guideline Principles, Active Interventions. Passive therapies may be used intermittently as a therapist deems appropriate or regularly if there are specific goals with objectively measured functional improvements during treatment.

a. …

b. The following passive therapies are listed in alphabetical order.

i. - vi.(d). …

vii. Intramuscular Manual Therapy: Dry Needling. IMT involves using filament needles to treat "trigger points" within muscle. It may require multiple advances of a filament needle to achieve a local twitch response to release muscle tension and pain. Dry needling is an effective treatment for acute and chronic pain of neuropathic origin with very few side effects. Dry needling is a technique to treat the neuro-musculoskeletal system based on pain patterns, muscular dysfunction and other orthopedic signs and symptoms:

13.b.vii.(a). - 14.a. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1664 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1140 (June 2014), LR 46:

§2023. Therapeutic Procedures—Operative

A. - F. …

G. Lumbar Operative Procedures and Conditions:

1. - 3.e. …

4. Laminotomy/Laminectomy/Foramenotomy/ Facetectomy for Central or Lateral Spinal Stenosis

a. Description - these procedures provide access to produce neural decompression by partial or total removal of various parts of spinous elements.

b. Complications—appropriate medical disclosures should be provided to the patient as deemed necessary by the treating physician.

c. Surgical indications include all of the following: radicular symptoms or symptoms of neurogenic claudication on exam, and failure of non-surgical care.

i. The non-operative improvement appears to be less likely for stenosis than for herniated discs.

d. Operative Treatment—laminotomy, laminectomy root decompression, and excision of synovial cyst.

e. Post-Operative Therapy—a formal physical therapy program should be implemented post-operatively. Active treatment, which patients should have had prior to surgery, will frequently require a repeat of the sessions previously ordered. The implementation of a gentle aerobic reconditioning program (e.g., walking) and back education within the first post-operative week is appropriate in uncomplicated post-surgical cases. Some patients may benefit from several occupational therapy visits to improve performance of ADLs. Participation in an active therapy program which includes restoration of ROM, core stabilization, strengthening, and endurance is recommended to be initiated three to six weeks post-operatively. The goals of the therapy program should include instruction in a long-term home based exercise program. (Refer to Therapy-Active).

5. Spinal Fusion

a. - h. …

6. Sacroiliac Joint Fusion

a. Description. Use of bone grafts, sometimes combined with metal devices, to produce a rigid connection between two or more adjacent vertebrae providing symptomatic instability as a part of major pelvic ring disruption.

i. Identifying the SI joint as the pain generator is challenging due to the multifactorial nature of low back pain. Once confirmed, management may include physical or manual therapy with a focus on core and pelvic stability, external orthodtics, periodic intra-articular injections, anti-inflammatory medications, and life style changes including smoking cessation and weight loss.

b. …

c. General Requirements.

i. Conservative management should include all of the following:

(a). activity modification;

(b). active therapeutic exercise program, physical therapy, or manual therapy;

(c). anti-inflammatory medications and analgesics; and

(d). cortcosteroid injection.

ii. Tobacco cessation. a tobacco-cessation program resulting in abstinence from tobacco for at least six weeks prior to surgery is recommended.

iii. Body Mass Index (BMI). Patient with a BMI equal to or greater than 40 should attempt weight loss prior to surgery.

d. Indications and Criteria.

i. Percutaneous/Minimally Invasive SI Joint Fusion may be considered medically necessary when all of the following criteria are met:

(a). persistent pain with a VAS of 5 or greater for more than six months' duration that interferes with functional activities;

(b). failure of conservative management for at least six months;

(c). confirmation of the SI joint as a pain generator as demonstrated by all of the following:

(i). pain pattern consistent with SI joint pain;

(ii). positive finger Fortin test (tenderness over the sacral sulcus);

(iii). lack of tenderness elsewhere in the pelvic region;

(iv). positive result from at least three provocative tests:

[a]. long ligament test;

[b]. Faber's test/Patrick's sign;

[c]. active straight leg raise;

[d]. compression test;

[e]. distraction test;

[f]. thigh thrust test; or

[g]. Gaenslen's test;

(v). and other sources of pain have been excluded as a cause;

(d). diagnostic studies that include all of the following:

(i). imaging (plain radiographs and a CT) or MRI of the SI joint;

(ii). AP plain radiograph of the pelvis to exclude hip pathology;

(iii). CT or MRI of the lumbar spine to rule out neural compression or other degenerative condition;

(iv). imaging of SI joint that indicates evidence of injury and/or degeneration;

(e). and confirmation of the SI joint as the pain generator. This can be demonstrated by at least 50 percent reduction of pain for the expected duration of the anesthestic utilized following an intra-articular SI joint injection. This must be done on two separate occasions.

e. Exclusions

i. Indications other than those addresses in this section are considered not medically necessary, including but not limited to the following:

(a). presence of infection, tumor, or fracture;

(b). acute, traumatic instability of the SI joint;

(c). presence of compression that correlates with symptoms or other more likely source of pain;

(d). generalized pain behavior such as somotoform disorder or generalized pain disorders like fibromyalgia; or

(e). ankylosing spondylitis or rheumatoid arthritis.

7. Implantable spinal cord stimulators are reserved for those low back pain patients with pain of greater than six months duration who have not responded to the standard non-operative or operative interventions previously discussed within this document. Refer to OWCA's Chronic Pain Disorder Medical Treatment Guidelines.

8. Laser discectomy involves the delivery of laser energy into the center of the nucleus pulposus using a fluoroscopically guided laser fiber under local anesthesia. The energy denatures protein in the nucleus, causing a structural change which is intended to reduce intradiscal pressure. Its effectiveness has not been shown. Laser discectomy is not recommended.

9. Artificial Lumbar Disc Replacement

a. - e. **…**

10. Kyphoplasty

a. - c. …

d. Surgical Indications. Kyphoplasty is an accepted treatment for the following indications:

i. - iii. …

e. Contraindications:

i. - vi. …

11. Vertebroplasty

a. …

b. Complications

i. - ii. …

c. Indications:

i. - iii. …

d. Contraindications:

i. - vi. …

12. Percutaneous radiofrequency disc decompression is an investigational procedure which introduces a 17 gauge cannula under local anesthesia and fluoroscopic guidance into the nucleus pulposus of the contained herniated disc, using radiofrequency energy to dissolve and remove disc material. Pressure inside the disc is lowered as a result. There have been no randomized clinical trials of this procedure at this time. Percutaneous radiofrequency disc decompression is not recommended.

13. Nucleus pulposus replacement involves the introduction of a prosthetic implant into the intervertebral disc, replacing the nucleus while preserving the annulus fibrosus. It is limited to investigational use in the United States at this time. It is not recommended.

14. Epiduroscopy and Epidural Lysis of Adhesions (Refer to Injections-Therapeutic).

15. Intraoperative neurophysiologic monitoring (IONM) is a battery of neurophysiologic tests used to assess the functional integrity of the spinal cord, nerve roots, and other peripheral nervous system structures (eg, brachial plexus) during spinal surgery. The underlying principle of IONM is to identify emerging insult to nervous system structures, pathways, and/or related vascular supply and to provide feedback regarding correlative changes in neural function before development of irreversible neural injury. IONM data provide an opportunity for intervention to prevent or minimize postoperative neurologic deficit. Current multimodality monitoring techniques permit intraoperative assessment of the functional integrity of afferent dorsal sensory spinal cord tracts, efferent ventral spinal cord tracts, and nerve roots. Combined use of these techniques is useful during complex spinal surgery because these monitoring modalities provide important complementary information to the surgery team. Intraoperative neurophysiologic monitoring should be used during spinal surgery when information regarding spinal cord and nerve root function is desired. The appropriate diagnostic modality for the proposed surgical intervention should be utilized at the discretion of the surgeon.

16. Non-invasive electrical bone growth stimulators may be considered:

a. as an adjunct to spinal fusion surgery for those at high risk for pseudoarthrosis, including one or more of the following fusion failure risk factors:

i. - iii. …

iv. presence of other risk factors that may contribute to non-healing:

(a). - (f). …

b. - c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1676 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1151 (June 2014), LR 46:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to handle the procedural changes.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Small Business Impact Statement

This Rule should have no impact on small businesses.

Public Comments

All interested persons are invited to submit written comments or hearing request on the proposed Rule. Such comments or request should be sent to Sheral Kellar, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802. Such comments should be received by 5 pm on June 10, 2020.

Ava Dejoie
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Treatment Guidelines

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will have no fiscal impact on state or local governmental units, other than the publication fees associated with the proposed rule change.

LA R.S. 23:1203.1 requires the Office of Workers' Compensation Administration (OWCA) assistant secretary, with the assistance of the medical advisory council, to review and update the medical treatment schedule a minimum of once every two years. In accordance with LA R.S. 23:1203.1, the proposed rule amends the medical guidelines for evaluating low back pain as contained in Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules update the medical guidelines for the treatment of injured workers. It is not anticipated that the proposed rules will result in a direct economic benefit. However, it is anticipated that the proposed rules will provide an indirect benefit to injured workers, employers, and insurers, by providing better medical treatment to injured workers, thus facilitating their recovery and return to work.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed change has no known effect on competition and employment.

Sheral Kellar
Assistant Secretary
2005#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Children and Family Services

Louisiana's 2020 Annual Progress and Services Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2020 Annual Progress and Services Report (APSR). The APSR is a report on the achievement of goals and objectives and/or outcomes for the last year of the 2020-2024 Child and Family Services Plan (CFSP). This plan addresses the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee Foster Care Independence Program (CFCIP), Educational and Training Vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds and serves as the applications for additional funds from these federal sources.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protective services, family services-prevention and intervention services, foster care, adoption and the youth transition services. The department will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, entitled the Stephanie Tubbs Jones Child Welfare Services Program, to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment opportunities. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs and to support Citizen Review Panels statewide.

The DCFS is encouraging public participation in the planning of services and the writing of this document. The report can be found for review on the internet at http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=132 then by clicking on the 2019 APSR link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is June 9, 2020 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for June 9, 2020 at 10 a.m. in Room 1-125 of the Iberville Building located at 627 North Fourth Street, Baton Rouge. Due to COVID-19, interested persons may join via ZOOM: join from PC, Mac, Linux, iOS or Android: https://stateofladcfs.zoom.us/j/96593135301, or telephone by dialing USA (713) 353-0212, conference code: 882585.

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

2005#038

POTPOURRI

Department of Children and Family Services

Social Services Block Grant Intended Use Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2020, and ending June 30, 2021. The proposed SFY 2019-2020 SSBG intended use report has been developed in compliance with the requirements of section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DCFS, as the designated state department, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS, Child Welfare Section (CWS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2020-2021 SSBG expenditures for adoption, child protection, family services, and foster care/residential care services.

Louisiana, through DCFS/CWS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the intended use report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 2020-2021 are:

A. adoption (pre-placement to termination of parental rights);

B. child protective services including assessment, evaluation, social work intervention, shelter care, counseling and referrals for child abuse/neglect reports;

C. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);

D. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the intended use report.

Persons eligible for SSBG funded services include:

A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential services;

B. individuals WRI who are recipients of Title IV-E adoption assistance;

C. recipients of supplemental security income (SSI) and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than $2682 would qualify as income eligible for services;

E. persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as eligible groups.

The post expenditure report for the SSBG program for SFY 2019 is included in the SSBG intended use report for SFY 2019-2020. Free copies are available by telephone request to (225) 342-342-5918 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821.

The report is available for public review online at: http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131, then select the 2019-2020 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is June 9, 2020 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for Tuesday, June 9, 2020 at 9:00 a.m. in Room 1-125 of the Iberville Building located at 627 North Fourth Street, Baton Rouge. Due to COVID-19, interested persons may join via ZOOM: join from PC, Mac, Linux, iOS or Android: https://stateofladcfs.zoom.us/j/98112636555, or telephone by dialing USA (713) 353-0212, conference code: 882585. 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

2005#039

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
Frank Perkins	Caddo Pine Island	S	Soc of La Stiles	002	20284
Platt et al	Caddo Pine Island	S	Pine Island Oil Co	001	3721
Muslow And Parker	Caddo Pine Island	S	E. K. Smith	036	54017
Superior Operating LLC	Grand Cane	S	Gca Bak L ra su ; Evans	001	211292
Superior Operating LLC	Grand Cane	S	Gca Bak L ra su ; IPCO 21 A	001	212777
Superior Operating LLC	Grand Cane	S	Gca Bak L ra su; G C Jones	004	211707
Superior Operating LLC	Grand Cane	S	Gca Bak L ra su; IPCO 21	003	212577
Superior Operating LLC	Grand Cane	S	Gca Bak L ra su; Pugh	001	210809
Superior Operating LLC	Grand Cane	S	Norris ra sua; IPCO 21	001	211375
W.P. Ballard-Cordell and Cordell	Big Island	M	A M Floyd Unit	001	71095

Richard P. Ieyoub
Commissioner

2005#032

POTPOURRI

Department of Health
Bureau of Health Services Financing

2020 Fourth Quarter Hospital Stabilization Assessment

In compliance with House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (*Louisiana Register*, Volume 42, Volume 11).

House Concurrent Resolution 5 of the 2019 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital.

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 5 for the quarter April 1, 2020 through June 30, 2020. The quarterly assessment amount to all hospitals will be

$32,906,591 which amounts to 0.29002 percent of total inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Dr. Courtney N. Phillips
Secretary

2005#048

POTPOURRI

Department of Public Safety and Corrections
Oil Spill Coordinator's Office

Notice of Settlement Agreement—Raphael Pass Oil Spill

Action: Notice of Availability of a Settlement Agreement for Natural Resource Damages – LOSCO NRDA an oil spill. The natural resource trustees for this incident include FWS, LOSCO, LDNR, LDEQ, LDWF, and CPRA (collectively, the "Trustees"). FWS is designated as a Trustee pursuant to Section 1006(b)(2) of OPA, 33 U.S.C. § 2706(b)(2), Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") (40 C.F.R. §§ 300.600, et seq.) and Executive Order 12580 (3 C.F.R., 1987 Comp. p. 193, 52 Fed. Reg. 2923 (January 23, 1987) as amended by Executive Order 12777 (56 Fed. Reg. 54757 (October 19, 1991)). LOSCO, LDNR, LDEQ, LDWF, and CPRA are designated as Trustees by the Governor of Louisiana pursuant to Section 1006(b)(3) of OPA, 33 U.S.C. § 3706(b)(3), and subpart G of the NCP. These same agencies serve as State Trustees under OSPRA according to R.S. 30:2451, et seq. and LAC 43:XXIX, Chapter 1, Section 101, et seq. Gulf Production Company, Inc. ("Gulf Production"), as the owner and operator of the storage tank that discharged oil, is the identified Responsible Party and is therefore liable according to 33 U.S.C. §2702 and R.S. 30:2480 for natural resource damages resulting from the incident.

Summary of Incident: On September 16, 2004, Hurricane Ivan made landfall in Alabama as a Category 3 hurricane, with feeder bands that brought storm surge and wind into Plaquemines Parish, Louisiana. A storage tank at Gulf Production's Raphael Pass Field, Plaquemines Parish, Louisiana shifted off its foundation, lost structural integrity, and discharged an estimated 362 barrels of crude oil condensate into the surrounding Delta National Wildlife Refuge (the "Incident"). Federal and state entities responded to the Incident to support clean-up efforts and assess the impact on the resources affected by the oil. Natural resources within the area that provide services to the public were adversely impacted by the discharged oil and response actions, including marsh vegetation and sediments, resident and migratory birds, aquatic species, waterways and interior marsh ponds, as well as other flora and fauna.

On August 20, 2005, the Trustees issued a Notice of Intent to Conduct Restoration Planning for this Incident. The Trustees and Gulf Production worked to evaluate and quantify the nature and extent of injuries to natural resources and services, and to determine the need for, type of, and scale of appropriate restoration actions.

Purpose: Pursuant to LAC 43:XXIX.101, et seq., notice is hereby given that a document entitled, "Settlement Agreement—Raphael Pass Oil Spill" is available for public review and comment. Gulf Production and the Trustees propose a cash settlement amount to expedite restoration for this Incident and to resolve Gulf Production's liability for natural resource damages under Section 1002(a) and (b) of OPA, 33 U.S.C. §2702(a) and (b), and Section 2480 of OSPRA, R.S. 30:2480. The mutual objectives of Gulf Production and the Trustees in entering into the proposed Settlement Agreement are:

(i) to provide funding to the Trustees to restore, replace, or acquire the equivalent of the natural resources injured, destroyed, or lost as a result of the Incident;

(ii) to provide payment to the Trustees to reimburse the remaining unpaid natural resource damage assessment costs incurred by the Trustees; and

(iii) to resolve the Trustees' claims against Gulf Production for natural resource damages under OPA and OSPRA as provided herein.

The Settlement Agreement is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review the Settlement Agreement and submit comments to the address listed below. The Trustees will consider comments received during the public comment period on the Settlement Agreement before finalizing the document. The Trustees are in the process of identifying and evaluating potential restoration projects that will appropriately address injuries to natural resources resulting from the Incident.

Public Participation: Interested members of the public are invited to view the Settlement Agreement via the internet at http://www.losco.state.la.us (look under Newsflash/ current news for Raphael Pass NRDA Settlement Agreement Available for Public Comment) or by requesting a copy of the document from Gina Muhs Saizan at the address provided below:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
Gina.Saizan@la.gov

Public participation is encouraged. Opportunities to participate in the process include public availability of AR documents as well as an opportunity for the public to review and comment on draft restoration planning documents that will identify the Trustees' preferred restoration project(s) for this Incident. A restoration plan(s) will be finalized and released to the public identifying the selected restoration project(s) to be implemented by the Trustees. Public participation is consistent with all state and federal laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. §2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, R.S. 30:2480; and the OSPRA regulations, LAC 43:XXIX.101, et seq.

Comment Submittals: Comments to the Settlement Agreement must be submitted in writing or digitally to Gina Muhs Saizan on or before the end of the 30-day comment period.

For Further Information: Contact Gina Muhs Saizan at (225) 925-6606 or by email at Gina.Saizan@la.gov.

Samuel E. Jones
Oil Spill Coordinator

2005#041

Agency Hearings—Emergency Cancellations or Modifications

Agency Hearings conducted pursuant to R.S. 49:953(A)(2)(a) and R.S. 49:968(H)(2) and Meetings
[Modified pursuant to Proclamations 30 JBE 2020 and 41 JBE 2020]

Department of Environmental Quality

Due to recent events, the Louisiana Department of Environmental Quality will modify the format of the administrative rules hearing currently scheduled for Friday, May 29, 2020, at 1:30 pm, on proposed rules, AQ381ft and HW128. This will proceed via Zoom meeting using the following link:

https://deqlouisiana.zoom.us/j/91678364789?pwd=WjNWVldZWXpIMGsramJTRU45TTF6Zz09

Password: 969299

Alternatively, one can join by phone at one of the following numbers:

+1 253 215 8782
+1 301 715 8592
+1 312 626 6799
+1 346 248 7799
+1 669 900 6833
+1 929 205 6099
Conference code: 725573

If you have any questions or need further information, please contact Deidra Johnson at (225) 219-4053 or Laura Almond at (225) 219-3981. You may also reach them by Email at Deidra.johnson@la.gov or laura.almond@la.gov.

Louisiana Department of Health

In light of recent events relative to the Coronavirus Disease 2019 (COVID-19) statewide public health emergency declaration, the Louisiana Department of Health, Bureau of Health Services Financing will reschedule the public hearing which was to be held on April 29, 2020 at 9:30 a.m. on the following healthcare licensing standards proposed Rules:

1. Facility Need Review—Relocation of Nursing Facility Beds (LAC 48:I.12529)
2. Hospital Licensing Standards—Obstetrical and Newborn Services (LAC 48:I.9505)

Please refer to the Notices of Intent published in the March 20, 2020 edition of the Louisiana Register or the Bureau of Health Services Financing Rulemaking website at http://ldh.la.gov/index.cfm/newsroom/category/172.

Questions or requests for additional information may be directed to Allen Enger, LDH Rulemaking Coordinator, at 225-342-1342 or by email to Allen.Enger@la.gov.

Board of Pharmacy

Pursuant to the provisions of Governor's Proclamation No. 41 JBE 2020 ~ Extensions of Emergency Provisions, the Board certifies it cannot achieve an in-person quorum for its meeting. Therefore, the Board has elected to conduct its hearing by teleconference as permitted by that same proclamation.

Notice Is Hereby Given that a Public Hearing has been ordered and will be conducted by teleconference at 9:00 a.m. on Friday, May 29, 2020. The telephone number for the teleconference is 888.270.9936 and the access code is 9534160. The hearing has been called for the purpose to wit:

Agenda: Revised 05-05-2020

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3. Solicitation of Comments on Regulatory Projects
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   B. Project 2020-2 ~ Automated Medication Systems
   C. Project 2020-3 ~ Pharmacist License Display
   D. Project 2020-5 ~ Marijuana Pharmacy
4. Opportunity for Public Comment
5. Adjourn

Louisiana Emergency Response Network

In light of recent events, the Louisiana Emergency Response Network will reschedule the public hearing currently scheduled for April 23, 2020, on proposed rule Title 48, Part I, 18708. The public hearing is rescheduled for May 23, 2020 at 11 a.m. at the Board office, 14141 Airline Highway, Building #1, Suite A & B, Baton Rouge, LA 70817.

If you have any questions or need more information, please contact Paige Hargrove, Executive Director, at 225-756-3440 or paige.hargrove@la.gov.

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