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Executive Orders

EXECUTIVE ORDER EWE-77-5

WHEREAS, present ferry transportation crossing of the Mississippi River services the communities of Lutchter and Vacherie in St. James Parish and the communities of Reserve and Edgard in St. John the Baptist Parish, as well as adjacent areas; and

WHEREAS, potential economic development, increased mobility of the people, increased use of the ferry, traffic hazards on the river, and other factors appear to justify the construction of a single fixed bridge crossing in order to service these parishes and surrounding communities; and

WHEREAS, a fixed crossing to replace the out-moded ferry service should enhance and stimulate the commercial and industrial development of the parishes of St. James and St. John the Baptist, as well as surrounding and adjacent areas; and

WHEREAS, such a river crossing facility would improve the social and human standards of safety, and would stimulate and foster the well-being and convenience of the citizens of these developing river parishes.

NOW, THEREFORE, I, EDWIN EDWARDS, Governor of the State of Louisiana, do hereby direct the Secretary of the Department of Transportation and Development and the commission hereby established to study the economic feasibility of constructing and maintaining a bridge, located in either St. James or St. John the Baptist parishes, or both, to cross the Mississippi River, and, in connection therewith, to use such powers, discharge such duties and perform such functions as may be required, in accordance with the provisions of R.S. 48:1093, and other laws which may be applicable to such a project.

FURTHER, I do hereby create and establish the St. James-St. John the Baptist Bridge Authority as an advisory commission to me and to the Legislature. Such commission shall be composed as follows: The Secretary of the Department of Transportation and Development (who shall serve as Chairman), two members who are electors of and domiciled in St. James Parish, and two members who are electors of and domiciled in St. John the Baptist Parish, and such other members the Governor may appoint from time to time. The initial members shall be Durel J. Matherne, Jr. and Monseigneur Arthur

J. Lieux, of St. James Parish, and Donald J. Boudreaux and Janice Meadox, of St. John the Baptist Parish. Members shall serve at the pleasure of the Governor and without compensation.

This authority shall report periodically to the Governor and the Legislature on its findings.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 9th day of March, 1977, A.D.

EDWIN EDWARDS

Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The following emergency policy was adopted by the State Board of Elementary and Secondary Education at its regular meeting on March 24, 1977, in order to guarantee due process to schools under the provisions of Act 274 of 1975; thereby, delay cutting off of transportation and other services and materials to any schools in Louisiana as provided in the Attorney General's Opinion No. 77-479.

Rule 4.01.11

Adoption of Attorney General's Opinion No. 77-479, dated March 21, 1977, as policy and procedure regarding bus transportation, thereby rescinding and setting aside any present policy.

Earl Ingram, Director
Board of Elementary and
Secondary Education

* * * *

Opinion No. 77-479
March 21, 1977

Brother Felician Fourrier, S.C.
Member, State Board of Elementary
and Secondary Education
P. O. Box 2028
Baton Rouge, Louisiana 70821

Dear Brother Fourrier:

You have requested an opinion from this office which has as its subject matter the public bus transportation of children attending nonpublic schools. Your concern is with our State law that limits this service to the children attending only those nonpublic schools which have been approved by the Board of Elementary and Secondary Education (BESE).

Specifically, your question is whether or not, at this particular point in time, either BESE or any local school board may properly discontinue the providing of public bus transportation for the benefit of students attending a nonpublic school which has been adjudged by either BESE or the Department of Education as not meeting the requirements for approval of such school.

It is our understanding that, at the present time, BESE through the Department of Education has defined the academic standards that must be met by public schools in order to obtain State approval. These academic standards and requirements are specifically set out in Bulletin 741. Your concern is the legality of the action by BESE or the Department of Education in applying Bulletin 741 to nonpublic schools as State academic standards for approval.

It is opinion that BESE cannot, constitutionally or legally, deny approval to any nonpublic schools unless and until it adopts proper criteria for such approval consistent with the mandate of the Louisiana Constitution of 1974.

Essentially, the Constitution, as adopted, provides that:

"Article VIII, Section 4. Upon application by a private elementary, secondary, or proprietary school with a sustained curriculum or specialized course of study of quality at least equal to that prescribed for similar public schools, the State Board of Elementary and Secondary Education shall approve the private school. A certificate issued by an approved private school shall carry the same privileges as one issued by a state public school."

This section of Article VIII makes it abundantly clear that BESE is mandated by the Constitution to approve any private school upon its providing the Board satisfactory evidence that such a school has implemented a sustained curriculum of a quality at least equal to that prescribed for similar public schools.

It is our opinion that this mandate clearly implies that the Board must, of necessity, create and adopt appropriate regulations and procedures for the evaluation of private schools, and that such evaluation must be based upon the singular consideration of whether the sustained curriculum of that school is of a quality at least equal to that of similar public schools. By further implication, this constitutional mandate necessarily precludes BESE from implementing standards of criteria for approval which addresses any other aspect of the operation and conduct of the private school other than in the area of what the Constitution has termed "sustained curriculum".

We find it necessary at this time to clarify Opinion No. 76-1878 issued by this office on January 13, 1977. The sole impact of Opinion No. 76-1878 is to the effect that a local school board does not have the power to provide bus transportation to any student attending a school which is not approved by BESE. It is not, by

implication or otherwise, authority for BESE to disapprove nonpublic schools under its existing regulations and standards as set out under Bulletin 741.

An even cursory examination of Bulletin 741 leads one to conclude that the requirements thereof relate to a variety of criteria other than a mere examination of school curriculum. Furthermore, the language of the Constitution implicitly mandates the Board to create standards for nonpublic school approval of a different nature than the standards which they have adopted for the public schools.

Were this not the case the Constitution would have merely provided that private schools shall be approved upon their meeting the same standards as BESE would fix for the public sector. However, when the Constitution speaks in terms of standards which are measured by the quality of the curriculum of the private school being equal to that of the quality of the curriculum in a similar public school, this concept must be interpreted as meaning BESE cannot apply Bulletin 741 in toto, as the measure by which nonpublic schools should be approved.

The Board has clearly recognized this self-evident constitutional limitation in implementing the provisions of Act 274 of 1975 (R.S. 17:11) in that they have appointed a nonpublic advisory committee to submit to the Board a proposed set of standards and guidelines for the approval of nonpublic schools.

We find it necessary to suggest that an imminent curtailment of bus transportation to children of nonpublic schools constitutes a disastrous and serious irreparable injury to countless citizens of this state without their being afforded any adequate due process of law in terms of review process of the suitability of the schools which their children attend for approval.

With these considerations in mind, it is our opinion that the Board of Elementary and Secondary Education cannot within the limitations of the Constitution of 1974, either approve or disapprove any nonpublic schools on the basis of the criteria as contained in Bulletin 741, and BESE should, therefore, defer any consideration of nonpublic schools' approval until such time as they have adopted criteria by way of regulations or amendments to Bulletin 741 and an administrative due process procedure for review of these schools' application. Meanwhile, under our existing laws and the Constitution, it is imperative that public bus transportation be continued to the children on nonpublic schools without interruption pending appropriate criteria as above mentioned.

After approval, these children are entitled, under our Constitution, to the same privileges and rights, as any other child attending school in our state, be it public or private.

If this office can be of any further assistance, please do not hesitate to contact us.

William J. Guste, Jr.
Attorney General

Rules

RULES

Board of Trustees for Colleges and Universities

(Editor's Note: The following rules were adopted by the Board of Trustees for Colleges and Universities on March 25, 1977, to become effective on April 20, 1977.)

Part I, Bylaws of the Board of Trustees for State Colleges and Universities, Article III, Section 1, Election of Officers, shall read as follows:

"Section 1. Election of Officers

At the first regular or special meeting of the Board in the calendar year, the Board shall elect a President and a Vice-President. The President and Vice-President shall be members of the Board. Each of these officers shall hold office for one year or until a successor has been elected."

Part II, General Operating Procedures, Section 2.7, Committees, shall read as follows:

"A. The Board shall have seven standing committees: 1. Finance, 2. Physical Plants, 3. Academic Affairs, 4. Student Affairs, 5. Athletic, 6. Grievance, and 7. Legislative.

Each committee shall be composed of at least five members appointed by the President."

(This is a technical amendment to bring Section 2.7 into conformity with the Bylaws passed in public hearing on June 25, 1976).

Part VII, Faculty and Staff Policies and Procedures, Section 7.1 shall read as follows:

A. Extension Beyond Age Sixty-five for Non-classified Personnel

1. The policy of retirement at age sixty-five shall be retained with the option of requesting, on a year by year basis, an extension of service for not more than three years when the applicant shall reach the age of sixty-eight. The applying faculty member shall submit the request for extension of employment by September 30 of the fiscal year in which he/she becomes eligible.
2. Each college or university shall form a Faculty Review Committee composed of five members:
 - a. The current Student Government Association President shall appoint a senior-level student from within the appropriate department;
 - b. The faculty shall elect annually from within its ranks seven members. Three of these seven faculty will serve on the Review Committee. In order to arrive at the three committee members, the applying faculty member and the college or university administration will, on a rotating basis, each withdraw two of the seven elected faculty members; and
 - c. The President of the college or university shall appoint one member of the Review Committee who shall serve as chairman.
3. The Committee shall be charged with the responsibility of interviewing the applicant, recording testimony from any interested faculty or student of the college or university, or any person called upon to testify before the Committee, and of securing all required application forms including records from two physicians attesting to the mental and physical fitness of the applicant. The Chairman of the Committee shall write the committee report and forward this to the college or university President.
4. The President shall receive all information from the Review Committee and shall make his recommendation for approval or disapproval and forward all information to the Board of Trustees for State Colleges and Universities for its action.

B. Extensions Through Summer Sessions

Persons reaching age sixty-five before June 30 who are currently teaching summer school shall be allowed to continue teaching the remainder of that summer session only.

C. Extension Beyond Age Sixty-Five for Board Staff

1. The Executive Director of the Board shall make recommendation to the full Board for staff extension of service beyond age sixty-five.

D. President Emeritus

Remuneration for the rank of president emeritus shall be discontinued with attrition taking care of those presidents presently drawing president emeritus pay.”

Part IX, Athletic Policies. Section 9.11A(5) shall read as follows:

- (5) Faculty and Full-time Employees—Reduced price on purchase of season tickets only.”

Bill Junkin, Executive Director
Board of Trustees for Colleges and
Universities

RULES

Board of Elementary and Secondary Education

Rule 3.01.51a

Revision to Bulletin 741, Handbook for School Administrators, Revised 1977, Requirements for High School Graduation.

Adoption of requirements of Act 83 of the 1976 Legislature which mandates a one-semester or one-half credit in the Free Enterprise System as a prerequisite to graduation for all students graduating from Louisiana public high schools during and after the 1977-78 school session.

Approved teachers certified in social studies, business education, and distributive education to teach the Free Enterprise System Course.

Earl Ingram, Director
Board of Elementary and
Secondary Education

RULE

**Department of Health and Human Resources
Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, has adopted regulations to allow reimbursement under Title XIX for medically necessary services rendered at an ambulatory surgical center. The recommended policy and procedures are as follows:

I. Definition of Ambulatory Surgical Center Services.

The services rendered must be medically necessary preventative, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient by or under the direction of a physician, osteopathic physician or dentist (for emergency and life threatening situations and for early and periodic screening, diagnosis, and treatment eligibles with prior authorization) in a facility which is not part of a hospital but which is organized and operated to provide medical care to patients.

This type facility will not provide services or other accommodations for patients to stay overnight. Therefore, the ambulatory surgical center shall have a system to transfer patients requiring emergency admittance or overnight care to a fully licensed and certified Title XIX hospital following any surgical procedure performed at the facility.

II. Basis of Payment.

Reimbursement for services rendered at an ambulatory surgical center to eligible Title XIX patients will be paid on a per diem basis per patient. This fee covers all operative functions attendant to medically necessary surgery performed at the center by a private physician, osteopathic physician or dentist; including admitting and laboratory tests, patient history and physical, operating room staffing and attendants, recovery room cases, and discharge. It includes all supplies related to the surgical care of the patient while in the center. The per diem payment excludes the physician fee, the radiologist fee, or the anesthesiology fee.

William H. Stewart, M.D., Secretary
Department of Health and Human Resources

RULE

**Department of Health and Human Resources
Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, has adopted a rule which limits to eighteen the number of days per calendar year for which the Medicaid program will make payment for the reservation of a bed in all intermediate care facilities for the mentally retarded (IFC/MR).

William H. Stewart, M.D., Secretary
Department of Health and Human Resources

RULE

**Department of Health and Human Resources
Office of Family Services**

The Department of Health and Human Resources, Office of Family Services (OFS), has adopted rules and regulations pertaining to eligibility requirements for implementation and administration of that part of Public Law 94-401(1976 Amendments to Title XX of the Social Security Act) which provides for grants to child day care providers to employ welfare recipients. Public Law 94-401 was administratively detailed in the Federal Register, Volume 42, No. 20, page 5,864, January 31, 1977.

The time period for which grants may be paid to child day care providers for employing welfare recipients dates retroactively from September 7, 1976, and continues through September 30, 1977. The limited period in which the program is operative made it urgent to implement the program timely in Louisiana.

Grants are made by the Office of Family Services to qualified child day care providers for employment of eligible welfare recipients. A qualified child day care provider is defined as an individual in whose facility at least twenty per cent of the total number of children regularly served are partly or totally funded under Title XX. In addition, the day care facility must have a day care license issued by the Office of Family Services.

An eligible welfare recipient is defined as an individual who meets the following requirements:

1. Must have been certified for Aid to Families With Dependent Children continuously during the ninety-day period immediately preceding the date on which the employee was hired.

2. Must have been employed by the day care provider on or after September 7, 1976.
3. Must have been a full-time employee of the center for a period in excess of thirty calendar days before the center can bill OFS for reimbursement.
4. Must not have displaced any other individual from employment in the center.
5. Is not a migrant worker.

Grants (reimbursement of expenses related to employment of AFDC recipients) may be paid to qualified public, nonprofit private, and proprietary child day care providers, through contracts with the Office of Family Services, for salaries paid to employ eligible welfare recipients provided the grants do not exceed the following amounts: (1) \$5,000 to public and nonprofit private providers for each recipient per year, and (2) \$4,000 to proprietary providers for each recipient per year.

Implementation and administration of this employment program has been accorded a high priority within the Office of Family Services in order that eligible AFDC recipients may participate in the program.

William H. Stewart, M.D., Secretary
Department of Health and Human Resources

RULES

Department of Natural Resources Office of Conservation

In Volume 2, Number 9, of the Louisiana Register of September 20, 1976, and in the Official State Journal of September 17, 1976, the Commissioner of Conservation gave notice of intention to give approval of a complete revision of the Louisiana Radiation Regulations and to hold a public hearing thereon.

The public hearing was held on October 14, 1976, with several members of the public giving oral testimony before the Commissioner and members of the Nuclear Energy Advisory Committee. In addition, numerous written comments were submitted prior to the hearing.

All substantive comments were given careful consideration, and the proposed revision of the Louisiana Radiation Regulations was reviewed by the Nuclear Energy Advisory Committee.

Having received a favorable recommendation for adoption by the Nuclear Energy Advisory Committee,

the Commissioner of Conservation hereby announces the adoption and promulgation of this revision of the Louisiana Radiation Regulations, to take effect immediately.

The Department of the State Register has exercised its option under R.S. 49:954.1C to decline publication of the new Radiation Regulations in the Louisiana Register. Copies of the Radiation Regulations may be obtained after printing from: Office of Conservation, Division of Radiation Control, P. O. Box 14690, Baton Rouge, Louisiana 70808.

R. T. Sutton
Commissioner of Conservation

RULES

Board of Nursing

Unit I

1.01 Statement of Purpose.

The Louisiana State Board of Nursing is a legally created administrative agency acting within the governmental structure of the State and possessing legal power. To safeguard life and health of the citizens of Louisiana, the Law Governing the Practice of Nursing, Louisiana Revised Statutes of 1950, as amended by Act 351 of 1976, delegates to this Board the responsibility to establish and publish standards of nursing practice; to regulate the practice of nursing by the registered nurse; to provide for examination and licensure of the nurse practicing as a registered nurse; and to establish standards for educational programs preparing individuals for nursing practice.

1.02 Purpose of Rules.

The purpose of these rules and regulations is to assist in the transaction of the business of administering and implementing the spirit and intent of the Law Governing the Practice of Nursing in accordance with Chapter 11 of Title 37 of Louisiana Revised Statutes of 1950, as amended by Act 351 of 1976.

1.03 History

Louisiana nurses were among the first in the nation to recognize the value of having a nurse practice act administered by a board of nursing to set standards for nursing education, to examine candidates, and to license practitioners. The first proposal for a nurse practice act

in Louisiana in 1904 was unsuccessful. Prior to 1904 only three states had boards of nursing.

The Louisiana State Board of Nursing came into existence in July, 1912, when Act 138 became law. At that time the name was "The Louisiana Nurses' Board of Examiners." Five physicians were designated to administer the provisions of that law because women were not permitted to hold public office. They could not vote.

The original Act was amended in 1922 and stipulated that there should be at least one nurse member. By that time women could vote. The Act was subsequently amended in 1926 to provide for three registered nurse members and two physician members. The Board became known as "The Louisiana State Board of Nurse Examiners" in 1942 when the Act was amended. The 1966 amendment called for five registered nurses and two physicians. Act 351 of 1976 designated seven registered nurse members and two physicians to serve as ex officio nonvoting members of the Board. The name was changed to "The Louisiana State Board of Nursing."

1.04 Philosophy.

The Board of Nursing, both by virtue of its legal status and its professional character, is dedicated to the belief that its purpose is to serve the people of Louisiana and to protect their health and welfare.

The Board members believe that their major responsibility is to see, in so far as possible, that those persons who practice nursing are competent and safe.

Further, they believe that sound nursing education is a prerequisite for the attainment of high standards of nursing practice. They believe that each member is obligated to demonstrate personal integrity, impartial judgment, wisdom and dedication to a high standard of service in Board activities.

Unit II

2.01 Duties of the Board directly related to nursing education programs as cited in Section 918 of Act 351.

The Board shall:

1. Establish and publish minimum curriculum requirements and standards for persons seeking to be licensed.
2. Approve schools which meet the licensing requirements of the Board.
3. Provide for hearings for nurse education programs when approval is withdrawn or denied.
4. Adopt and revise rules and regulations.

5. Have all other powers necessary and proper to the performance of their duties.

2.02 Definitions

1. Approval: The program has fulfilled requirements set forth in Board rules and regulations. Graduates from Board-approved programs are eligible to apply for registered nurse licensure.
2. Board: The Louisiana State Board of Nursing.
3. Clinical facility: An institution, agency or organization whose primary purpose is to provide care or services supportive to the promotion or maintenance or restoration of health.
4. Cooperating agency: An organization, institution or agency which by agreement accepts students for educational experiences selected by the nursing program.
5. Course: A distinct unit of instruction which has been organized for presentation within a specific time frame. In a nursing course this refers to all the related learning experiences deemed necessary by the faculty to meet the stated objectives.
6. Curriculum: The planned studies and learning activities designed to lead to graduation and eligibility for registered nurse licensure.
7. Director: The registered nurse with the authority and responsibility for the administration of the program and implementation of the curriculum. This title is used regardless of the person's official title in the controlling institution.
8. Faculty: The group of persons employed for administration, teaching, guidance or research functions in the program preparing candidates for registered nurse licensure.
9. Objectives: The aims, goals, or purposes of the nursing program.
10. Philosophy: A statement which includes and identifies the beliefs accepted by the faculty and the controlling institution about nursing education.
11. Recommendations: Statements of desirable standards for the development of quality program. Strongly urged by the Board, but not mandatory.
12. Requirements: Mandatory standards with which schools shall comply in order to be approved.
13. School or Nursing Education Program: These terms are used interchangeably to designate an educational unit whose purpose is to prepare practitioners of nursing and whose graduates are eligible to apply to write the registered nurse licensing examination.
 - A. Associate: A program leading to an associate degree in nursing conducted by an educational unit that is an integral part of a college, community college or university.
 - B. Baccalaureate: A program leading to a baccalaureate degree in nursing, conducted by an