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Executive Orders

EXECUTIVE ORDER EWE-78-18

WHEREAS, the state's casualty and property insurance program is one of the largest expenses carried by the state; and

WHEREAS, a general state casualty and property insurance program that is flexible and comprehensive yet affordable is necessary to allow the state to protect its property against casualty loss and deprivation; and

WHEREAS, the Subcommittee on Legislative Oversight of the House Appropriations Committee has determined that in the best interest of the State of Louisiana a study needs to be undertaken to examine and research the state's property and casualty insurance program and its liability exposure; and

WHEREAS, such a study can best be conducted by an impartial panel of insurance experts from across the state.

NOW, THEREFORE, I, EDWIN EDWARDS, Governor of the State of Louisiana, by virtue of the power vested in me by the Constitution and the laws of this state, do hereby create the State Insurance Study Committee to examine Louisiana's present casualty and property insurance coverage, to determine what changes, if any, need to be made to provide Louisiana with up-to-date and economical property and casualty insurance coverage, and to make such recommendations to me and to the Legislature as it deems proper based upon its findings.

FURTHER, the study shall include, but shall not be limited to, the current state program, property and casualty liability exposure, immunity limitation, methods of insuring the state's exposure, the organization and functioning of the Office of Property and Casualty Insurance in the Department of Insurance, and any other matter the Committee may feel pertinent to the state's insurance program.

FURTHER, the Committee shall be composed of the following: W. P. Schell and J. H. Harrell, representing the American Insurance Association, the American Mutual Insurance Alliance and the National Association of Independent Insurers; Leslie McKenzie and Joel P. Ory, Sr., who shall represent the Independent Insurance Agents of Louisiana; Stan Rosenthal, representing the Louisiana Association of Business and Industry; L. G. Morgan, representing the AFL-CIO; Thomas Collins, who shall represent the Louisiana Bar Association; Robert S. Felton, who shall serve as a member at large; the chairman of the Subcommittee on Legislative Oversight of the House Appropriations Committee; and the chairman of the Senate Commerce Committee. The members shall serve at the pleasure of the Governor.

FURTHER, the State Insurance Study Committee shall submit its recommendations and findings to the Governor and to the House Appropriations Committee by April 1, 1979.

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 12th day of December, A.D. 1978.

Edwin Edwards
Governor of Louisiana

EXECUTIVE ORDER EWE-78-19

WHEREAS, the law authorizing the First Use Tax in Louisiana is one of the most important and far-reaching pieces of energy and

tax legislation to come from the Louisiana Legislature in recent years; and

WHEREAS, this Administration has a solemn duty to insure that all litigation involving the First Use Tax legislation is supervised, administered, and supported in the most professional way possible and by the most competent counsel available; and

WHEREAS, information and data in all state agencies germane to the issues of energy, taxation, and natural resources of this state must be included in the research files of the First Use Tax Legal Team appointed by the Governor to provide counsel to the State of Louisiana in the First Use Tax litigation; and

WHEREAS, the services and complete cooperation of all state personnel in this legal proceeding are of supreme importance to the success of the proceeding.

NOW, THEREFORE I, EDWIN EDWARDS, governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and the laws of this state, do hereby grant the First Use Tax Legal Team the authority to avail themselves of the use of all personnel, services, and facilities of all public agencies, departments, boards, and commissions of the state that are under my control and direction.

All state personnel who may be in a position to do so are instructed to furnish the Legal Team, upon request, information pertinent to its objectives and otherwise to facilitate the Team's work.

BE IT FURTHER RESOLVED, that the First Use Tax Legal Team is authorized to receive grants, donations, or gifts of money or services from public or private persons and entities to be utilized to accomplish the purpose for which the Team was assembled.

BE IT FURTHER RESOLVED, that any agency, department, board or commission that has any information, data, or questions that are pertinent to the state's objectives may contact the counsel to the Governor in order that proper dissemination to the Legal Team can be accomplished without undue delay.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to have affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 22nd day of December, A.D. 1978.

Edwin Edwards
Governor of Louisiana

AMENDMENT TO EXECUTIVE ORDER EWE-77-10

Paragraph Eleven, designated as VI, and the following paragraphs of Executive Order EWE-77-10, dated July 26, 1977, are hereby amended to read as follows:

VI. The Board shall be composed of attorneys and /or members of the Judiciary in the State of Louisiana, to serve at the pleasure of the Governor and without compensation for their services. The Board shall represent the State of Louisiana on the National Conference of Commissioners on Uniform State Laws.

I further declare that this executive order shall supercede Executive Order EWE-76-9.

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 thi the 19th day of December, A.D. 1978.

Edwin Edwards
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture Office of Agricultural and Environmental Sciences

Effective December 29, 1978, the Department of Agriculture, Office of Agricultural and Environmental Sciences, has exercised those powers conferred by the emergency provisions of the Administrative Procedures Act, R.S. 49:953, et seq., to adopt amendments to the Sweet-potato Weevil Quarantine and Regulations, which were initially adopted under the provisions of Parts 2 and 3 of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950. This action has been taken to prevent spread of sweet-potato weevil from infested areas, to areas not known to sustain infestations of these pests. This insect is considered to be the most destructive pest of sweet potato and its spread presents an imminent hazard to the sweet potato industry of Louisiana. In connection with these infestations, it has become necessary to promulgate the following emergency rule, by amending Supplement to Sweet-potato Weevil Quarantine and Regulation, Section III, Quarantined Areas, that portion of paragraph 2-A dealing with West Carroll Parish, by adding the following properties:

. . . that portion consisting of a one mile radius of and including the property of Allen Canning Company, section 36, R10E, T22N; that portion consisting of a one mile radius of and including the property of H and A Produce Company, section 31, R11E, T22N.

Richard Carlton, State Entomologist
Office of Agricultural and Environmental Sciences

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

Effective January 1, 1979, the Department of Health and Human Resources, Office of Family Security, has exercised those powers conferred by the emergency provisions of the Administrative Procedures Act, R.S. 49:953 B to repeal specified limitations except for the outpatient hospital visit per calendar year limitation in the Medical Assistance Program (MAP). The limitations which appeared in the Louisiana Register, Volume 4, Number 12, of December 20, 1978, on page 473, Column 2 and page 474, Column 1 with the exception of the three outpatient hospital visits per calendar year, are herewith rescinded.

This action is taken to comply with the mandate issued by the Governor of the State of Louisiana and the Budget Committee of the Louisiana Legislature to delay, until further study, the implementation of the proposed program limitation.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

Effective for the November, 1978, payment for October, 1978, services, the Department of Health and Human Resources, Office of Family Security, has exercised those administrative powers conferred by the emergency provision of the Administrative Procedures Act, R.S. 49:953B, to adopt policy that will permit payment to Intermediate Care Facilities for the Mentally Retarded (ICF/MR) on an individual, prospectively determined rate with no provision for retroactive adjustment for over or underpayment; except for overpayments which occur from the inclusion of unallowable costs in the cost report. The ICF/MR facilities, both private and state owned, will file cost reports.

The ICF/MR facilities will be paid a rate equal to their allowable cost, inflated. Private for-profit facilities will have included in their per diem rate a return on net equity capital equal to the Medicare (Title XVIII) rate, using the simplified computation.

New facilities will be paid a rate equal to the weighted average rate paid to facilities in the area. A new facility will be paid an individual, prospectively determined rate when the earlier of the following two events occur: (1) three months of operation when an average occupancy of 80 percent has been achieved; (2) two years of participation in the program have been completed.

If option (1) occurs first, the facility must file a cost report for the three month period. The new rate will be effective when computed not when submitted. The new rate will be set within sixty days of receipt of the cost report by the state agency.

The facility will thereafter file annual cost reports.

Individual prospectively determined rates hereafter shall be computed annually to be effective with the July payment for June services. An individual facility's most current cost document will be appropriately inflated to set a payment rate to be effective for one year.

The Department of Health and Human Resources, Office of Family Security, feels that this change in policy will allow the payment to ICF/MR's to comply with the federal option of recognizing these type facilities as a special group. Until audit problems in some facilities could be overcome, the ICF/MR's were being paid at a retrospective rate. With the adoption of this rule, we are now able to uniformly reimburse these facilities on a prospective rate.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

Rules

RULE

Department of Corrections Office of Adult Services

Regulation No. 30-19A Visitation: Adult Inmates

1. Purpose. The purpose of this regulation is to establish the Secretary's policy regarding inmate visiting at all adult institutions of the Department of Corrections.

2. Responsibility. It is the responsibility of the Assistant Secretary for Adult Services and all wardens of adult institutions to implement this regulation and convey its contents to all inmates,

affected employees, and persons applying to visit, or persons approved to visit.

3. Legal Authority. R.S. 15:833(A).

4. General. Inmates are to be permitted visitation under reasonable conditions with approved friends, relatives and other persons. Uniform visiting procedures are to be established and adhered to at all institutions under conditions and in a manner which is in keeping with the most recent court decisions on inmate visiting.

An inmate may refuse to see a visitor, but the inmate should sign a statement to that effect or a note placed in his file that he refuses to do so. A person may be removed from the approved visiting list at his own request or at the request of the inmate.

The guidelines set forth herein as to the treatment of visitors are to be strictly followed. The restrictions on visiting set forth herein are the most severe which may apply to any institution. However, the warden may limit the number of visitors which may be approved to visit each inmate, the number of visits, and the duration of the visit in accordance with the provisions of this regulation. Each warden is to promulgate the rules governing visiting at the institution(s) under his control, and such rules shall be in accordance with this regulation.

5. Procedure.

A. Each inmate must apply to the warden or his designee to have a particular person placed on the inmate's approved visiting list. The inmate must supply a correct name, address, birth date and identify the relationship of the person to that inmate. A list shall be kept of those persons approved to visit, and a record may be kept of persons who do visit an inmate.

B. The inmate may not be prohibited, nor limited by number from receiving visits from the following persons except as provided in paragraphs C and D below.

(1) Identifiable parent(s), or if not raised by parents, the person(s) who raised the inmate,

(2) Identifiable grandparent(s), if parent(s) not living,

(3) Identifiable spouse,

(4) Identifiable children,

(5) Identifiable sibling(s), if none of the above are on the visiting list,

(6) Identifiable religious or spiritual counselor,

(7) Identifiable attorney(s), their employee(s) authorized by the attorney to act on his behalf, and law students engaged in approved clinical programs.

C. Restrictions on visiting may only be imposed in accordance with the following:

(1) Any person may be refused approval to visit an inmate until their identity or relationship to the inmate can be established.

(2) Any person may be refused approval to visit an inmate if the visitor refuses to submit to a search and may be refused permission until the visitor will submit to a search.

(3) Any person may be refused approval to visit an inmate and removed from the approved visiting list if the visitor does not comply with the rules of the institution during a visit.

(4) Any person may be permanently refused approval to visit an inmate if the conduct of the visitor amounts to a violation of state law, such as assault, battery, disturbing the peace, introduction or attempted introduction of contraband, etc.

(5) Any person who is an ex-felon and who has not been finally discharged from an institution or from probation or parole for more than two years without an intervening criminal record or who has pending criminal charges, may be refused approval to visit the inmate, unless the person is an identifiable parent(s), spouse, sibling(s), grandparent(s), or child of the inmate, in which case the two year restriction does not apply.

(6) Any person who is incarcerated or on probation or parole at the time of the requested visit may be prohibited from visiting with an inmate.

(7) Any person, except an identifiable religious counselor or attorney, may be refused approval to visit with an inmate if the inmate has had his visiting privileges restricted as a penalty for a rule infraction involving visiting, or if the inmate is in isolation.

(8) No person may be refused approval to visit an inmate solely upon the basis that the person did not know the inmate prior to his incarceration, unless the person applying to visit is also incarcerated.

(9) Any person, except those enumerated in paragraph B above may be refused approval to visit because the inmate has the number of persons permitted by the institution already on his visiting list, or in the case of visits from nonrelated members of the opposite sex, the inmate is married or lists as a spouse, or has as an approved visitor, a girlfriend or boyfriend who is a person other than the applicant.

(10) Any person may be denied permission to visit during the time of a disturbance at the institution, if the Secretary has declared that all visiting is suspended during the emergency.

D. Number, Duration and Conditions of Visits.

(1) Each inmate should be afforded at least two visits per month, preferably on weekends. Each visiting period should be of two hours duration.

(2) The warden of each institution shall promulgate rules governing the number of visitors that may visit an inmate individually at one session, as well as the number of persons which may visit one inmate in a group, and shall submit same to the Secretary for his approval. Family visiting, and orderly contact visits are to be permitted to the extent possible.

(3) Attorneys, their employees, and law students in approved clinical programs may visit their clients at any time during normal working hours (8 a.m. to 5 p.m., Monday through Friday). Special visits may be arranged in accordance with Section 7 of this regulation. Except in emergency cases, visits by attorneys, their employees and law students in approved clinical programs must be scheduled twenty-four hours in advance.

(4) The areas where visiting occurs shall be clean and well lighted. All visitors are to be informed orally or in writing of the rules and regulations governing visiting.

(5) Privacy shall be afforded to the degree security permits when an inmate visits with legal advisors, but in no case will conversations during such visits be monitored.

(6) Any visit may be terminated while in progress if the inmate or visitor violates the rules governing visiting.

6. Treatment of Visitors.

A. There shall be no discrimination in visiting. All visitors and inmates will be provided equal opportunities in visiting, in accordance with the inmates' security class and housing assignment.

B. Visitors shall be treated with courtesy at all times and should not be subjected to unnecessary delay, inconvenience or embarrassment in accomplishing a visit.

C. Any search of a visitor's person shall be done by someone of the same sex, without force, and in a manner that will not cause embarrassment to the visitor.

7. Special Visits.

A. The warden of each institution may approve on a case by case basis, or generally in unusual circumstances, special visits in the following cases:

(1) Approved visitors are unable to visit on regular visiting days,

(2) Longer visits, more visitors or more visiting periods than institutional regulations allow.

B. If the person applying to visit is otherwise restricted from visiting, the warden may approve a special visit, except when the person applying to visit the inmate is also incarcerated, prior approval of the Assistant Secretary of Adult Services is required.

8. Cancellation. This regulation supercedes Department Regulation 30-19, dated August 8, 1978, insofar as that regulation applied to adult visitation. This regulation also supercedes Department Regulation 10-18 dated December 26, 1974, insofar as that regulation applied to visitation of adult inmates by attorneys. This regulation will not operate to remove any person who is currently on an inmate's approved visiting list.

C. Paul Phelps, Secretary
Department of Corrections

RULE

**Department of Corrections
Office of the Secretary**

**Regulation No. 30-19
Correspondence and Packages:
Adult Inmates**

1. Purpose. The purpose of this regulation is to establish the Secretary's policy regarding the receipt of mail and packages at all adult institutions of the Department of Corrections.

2. Responsibility. It is the responsibility of all wardens and mail room supervisors of adult institutions to implement this regulation and convey its contents to the inmate population, affected employees and affected members of the public.

3. Legal Authority. R.S. 15:833(A). *Guajardo v. Estelle*, 580 F.2d.748 (5th Circuit 1978).

4. General. It is the Secretary's policy that the least restrictions possible be placed on an inmate's ability to send and receive letters and publications through the mail. To this end, reading or censorship of incoming and outgoing letters and publications shall be limited only to those items which are detrimental to security, order, or rehabilitation, or if the reading or censorship is necessary to prevent commission of a crime. The receipt of packages through the mail is not to be encouraged and any packages received must conform to the list of approved package items at the institution and are to be inspected and handled strictly in accordance with this regulation.

Before receiving letters, packages, or publications, the inmate must sign the attached form and should be informed that if he does not sign the form, all of his incoming mail will be returned to the post office marked "refused."

I, _____, agree to accept the delivery of mail sent to me through this institution,

(Institution)

Witness Inmate

Witness Date

NOTE: This form is required by federal postal regulations so that inmate mail can be delivered to the institution. (Federal Register, Vol. 43, No. 66, Page 14308, April, 1978).

5. Procedures for letters.

A. Receipt and sending of letters through the mail.

(1) There shall be no restriction on the number of correspondents, number of letters written or received, the length or

language of the letter. Inmates shall be allowed to send to and receive letters through the mail from all persons, including inmates in other institutions.

(2) On the written request of the person receiving correspondence from an inmate, or of a minor's parent or legal guardian, the institution may refuse to mail correspondence addressed to the person so requesting, in which case the letter must be returned to the inmate with a written explanation.

(3) All mail, incoming and outgoing, shall be handled without delay and on a daily basis.

(4) No record shall be kept of whom an inmate corresponds with except for good cause shown, and the keeping of the record is authorized in writing, by the warden.

B. Inspection of letters.

(1) Outgoing letters—All letters are to be posted unsealed and inspected for contraband only except for the following which are to be posted sealed and may not be inspected except with a search warrant.

- a. Courts.
- b. Prosecuting attorneys.
- c. Probation and parole officers.
- d. State and federal departments, agencies and their officials.

e. Identifiable attorneys (the name, address and fact that the addressee is an attorney must appear on the envelope).

f. Identifiable members of the press (the name, address, and identification of the addressee as a member of the press must appear on the envelope).

(2) Incoming letters—Except in the cases enumerated below, incoming letters may be opened and inspected for contraband.

a. Letters from Department of Corrections officials are not to be opened.

b. Letters from the following may be opened and inspected for contraband only when there is good cause to believe contraband is contained therein, and then only in the presence of the inmate-addressee.

- i. Courts.
- ii. Prosecuting attorneys.
- iii. Probation and parole officers.
- iv. Identifiable attorneys (name and address and fact that sender is an attorney must appear on the envelope).
- v. Identifiable member of the press (the name and business address and identification of the sender as a member of the press must appear on the envelope).
- vi. State and federal agencies and officials.

C. Reading of letters. When the warden determines that it is necessary to prevent the commission of the crime or necessary to the maintaining of security, order, or rehabilitation in this institution, he may require the reading of an inmate's mail. In such cases a written record shall be kept in the appropriate office and shall include:

- (1) Inmate's name and number.
- (2) A description of the mail to be read (e.g. outgoing only, from a particular person, etc.).
- (3) The specific reasons it is necessary to read the mail, including all relevant information and the names of the persons supplying information.
- (4) Length of time the mail is to be read.
- (5) Signature of the warden, superintendent, or his representative.
- (6) Notes on the nature of the mail read, but no copies of the mail unless necessary for later use as evidence.

At the termination of the reading period a copy of all but (3) above shall be placed in the inmate's file, with the entire original remaining in the appropriate office.

D. Stationery, envelopes, and stamps. These items shall be available for purchase by the inmates and shall be provided to indigent inmates in sufficient quantity for all legal and official correspondence, and for at least two letters of personal correspondence each week. The institution is not required to provide postage for registered, certified, or special delivery mail.

6. Procedure for Packages. If permitted by the regulations of the individual institution, any person may send approved items through the mail to inmates.

A. Approved items. Subject to the approval of the Secretary, each warden or superintendent will prepare and make available to the inmate population a list of items which may be received in packages.

B. Inspection of packages. All packages shall be inspected for the purpose of discovering contraband. Such inspection shall be done in a manner that will not damage the contents of the package. A list may be kept of the items an inmate has received through the mails.

(1) Discovery of contraband in packages. Upon discovery of unapproved items or contraband in an incoming package, the following procedures are to be implemented:

a. Notice to the inmate of the contents of the package, the date of its receipt, the reason the package is unacceptable, and that the inmate has twenty-one days to provide return postage for the package, or that it will be otherwise disposed of at the end of twenty-one days.

b. If the inmate is without funds to supply postage, and this is verified through Inmate Accounts, the institution shall pay return postage.

c. When postage is provided, the package shall be returned to sender, with a note specifying the reason for its return.

C. Disposal of items received in packages and letters.

(1) Procedures. Unapproved items for which no postage has been provided shall be disposed of in the following manner with documentation of the method of disposal.

a. All perishable items shall be destroyed.

b. Clothing may be used to provide clothing for inmates discharging from custody.

c. When the item received is any of the following, the letter or package, its contents, and any other pertinent information shall be turned over to the district attorney in the parish where the institution is located, with notification to the local Federal Bureau of Investigation agent.

i. Any controlled dangerous substance.

ii. Any weapon, or explosive.

iii. Any escape plans.

iv. Any plans for criminal activity or acts which constitute criminal behavior.

d. If the inmate refuses to provide postage for items having a value of twenty-five dollars or more, except clothing, the institution shall pay for the return postage and the amount shall be charged against the inmate's account.

e. All items returned shall be insured.

f. All other items shall be donated to a charitable organization, upon approval by the Secretary.

g. No unapproved item shall be given to or purchased by an employee of the Department of Corrections.

h. Upon the approval of the warden of the institution, unapproved items, other than those listed in C(1)c(i-iv) above, may be disposed of by turning the item over to an approved visitor and having the visitor sign a receipt for the item.

7. Procedures for publication. Books, magazines, newspapers, pamphlets, leaflets, brochures, and other printed matter are considered publications. Such printed matter may be read and in-

spected to discover contraband and unacceptable depictions and literature. Unless otherwise provided by the rules of the institution, all printed matter must be received directly from the publisher.

A. Refusal of publications. The Secretary's general policy is to permit any printed matter which has passed through the U.S. Mail to be received by inmates. The presumption is that printed matter received through the mails is acceptable. Therefore, printed material shall only be refused if it constitutes an immediate threat to the security and order of the institution, or would be detrimental to the rehabilitation interests of the institution. In making this determination, the printed matter must fall into one of the following described categories.

(1) The printed matter concerns escape plans.

(2) The printed matter concerns plans to violate prison rules, or disrupt work routine.

(3) The printed matter concerns the introduction, purchase, or instructs in the manufacturing of controlled dangerous substances or alcohol.

(4) The printed material concerns the introduction of, or instruction in the use of or manufacture of weapons, or instructs in the use of martial arts.

(5) The printed matter contains material which reasonably construed, is written solely for the purpose of communicating information designed to achieve the breakdown of prisons through inmate disruption such as strikes or riots or fomentation of inmate unrest.

(6) The printed material contains a graphic presentation of sexual behavior that is in violation of the law (e.g., rape, homosexual acts, or crime against nature, of any degree).

(7) The printed material has been judicially declared obscene.

(8) The printed material contains depictions of actual or simulated sexual intercourse, which is so explicit that it would stimulate inmates to further criminal behavior in the form of homosexual acts.

B. Procedures when publication is refused. If a publication is to be refused, the following procedure shall be followed:

(1) Specific, factual determination by the warden or his designee that the publication is detrimental to security, order, or rehabilitation and in what particular way it is detrimental under the standards in section 7A (1)-(8) above.

(2) Notice to the inmate of the decision to return a publication and the reasons therefore, and informing the inmate that he has seven days to appeal to the warden.

(3) If the appeal to the warden is denied, notice to the inmate of this decision within ten days of receipt of the appeal, and informing him that he has five days to appeal to the Secretary of Corrections who shall review the publication.

(4) Notice to the inmate of the Secretary's decision within ten days of the receipt of the appeal, with written reasons if the appeal is denied.

(5) Return of the publication to the sender if the appeal is denied, or forwarding of the publication to the inmate if the appeal is granted.

(6) All refused publications will be held a minimum of forty-five days to allow for exhaustion of appeals.

8. Restrictions on Mail.

A. All inmates regardless of status shall be allowed to send and receive approved letters. Inmates in isolation may be denied the right to send mail, except to the courts, legal counsel, or the Secretary during the period of isolation.

B. Inmates in administrative lockdown and isolation may be restricted from receiving packages or publications during their stay in administrative lockdown or isolation, but all other mail shall be delivered to them.