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Executive Orders

Executive Order No. 80-4

WHEREAS, due to natural and incidental man-made catastrophes and disaster which have resulted and will continue to result from the torrential rains, highwater levels and flooding of certain areas of the State of Louisiana, causing, or threatening to cause widespread and severe damage and injury, including loss of life or property; and

WHEREAS, persons and property in and near False River in Pointe Coupee Parish may be victimized or threatened by such catastrophes and disaster; and

WHEREAS, the seriousness of the current emergency has been publicly announced by the Police Jury of Pointe Coupee Parish, Louisiana with the request that specific emergency action be taken; and

WHEREAS, when such conditions exist and valid requests are made to him, it is necessary and appropriate, under the constitution and laws of this state, for the Governor to take such action as he considers necessary and appropriate to protect lives and property to the end that existing hazards and dangers will be decreased and hopefully eliminated; and

WHEREAS, power boat navigation on False River during this time of crisis can only serve to cause damage and injury and to maintain the level of or to increase existing hazards and danger to life and property; and

WHEREAS, the Chief Executive of Louisiana is required to act in the public interest in times of emergency, catastrophe, and disaster.

NOW, THEREFORE, by virtue of the powers vested in me to preserve law and order and to curtail and reduce the injury and damage to persons and property resulting from catastrophe and disaster, I, DAVID C. TREEN, acting under the authority granted to me and the duties imposed upon me by Article 4, Section 5(A) and (J) of the Louisiana Constitution of 1974, Act 636 of 1974 as amended by Section 1 of Act 645 of 1975 (The Louisiana Disaster Act of 1974), do hereby, and for an indefinite period not to exceed 30 days from this date, order and proclaim that power boat navigation on False River be and the same is hereby prohibited.

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 3rd day of April, A.D., 1980.

David C. Treen
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture
Livestock Sanitary Board

The Livestock Sanitary Board has adopted the following emergency rule, effective March 14, 1980, due to the fact that the necessity of changing this rule in this regulation, Regulation

28, was overlooked when the rule was changed in Regulation 3, Governing the Operation of Livestock Auction Markets. These regulations must be in accord. The emergency rule reads as follows:

To amend Regulation 28, Governing Equine Infectious Anemia, Section 1, Equine Required to be Tested, Part 3, Exceptions: (b) Untested horses arriving at auction markets may be sold for purposes other than slaughter if a blood sample is drawn for Equine Infectious Anemia testing at buyer's expense before the animal leaves the auction market. This sample must be collected by a private practitioner and submitted to an approved laboratory. If a private practitioner is not available to conduct the test, the state employed veterinarian who is writing health certificates at the auction market may conduct the test and shall charge a fee of \$10.00. This fee will go into the fund for State laboratories. Horses may then move from the auction market to the purchaser's premises under quarantine issued by Livestock Sanitary Board personnel until results of Coggins Test are received. If the animal is found to be positive, it must be properly identified by a permanent identification and will remain under quarantine until sold for immediate slaughter.

Ray O. Hargis, D.V.M.
Acting State Veterinarian

DECLARATION OF EMERGENCY

Department of Health and Human Resources
Office of Family Security

In accordance with the provision of Louisiana R.S. 40:29, the Department of Health and Human Resources, Office of Family Security has expanded the list of drugs for which Maximum Allowable Costs (MAC) are required by Federal Regulations. Effective March 31, 1980, the following drugs have been added to the MAC:

Hydralazine HC1 25 mg\$0.0279 per tablet
Hydralazine HC1 50 mg 0.0384 per tablet

In no case may a recipient be required to provide payment for any difference in a prescription price that may occur with the implementation of MAC, nor may our office use a cost which exceeds the established maximums except as follows. HEW's regulations provide that when a physician certifies that a specific brand is medically necessary for a particular patient then the MAC limitations for that medication will not apply. In this case their specific guidelines provide that:

1. The certification must be in the physician's handwriting.
2. The certification may be written directly on the prescription, or on a separate sheet which is attached to the prescription.
3. A standard phrase written on the prescription, such as "brand necessary," will be acceptable.
4. A printed box on the prescription blank that could be checked by the physician to indicate brand necessity is unacceptable.
5. A handwritten statement transferred to a rubber stamp and then stamped on the prescription blank is unacceptable.

This action will allow the Medical Assistance Program to be in compliance with Federal Regulations 42 CFR 447.332 effective March 31, 1980, which were published in the *Federal Register* dated February 14, 1980, Volume 45, Number 32, pages 10032 through 10035. Compliance with these regulations assures continued Federal financial participation in Louisiana's Medical Assistance Program.

George Fischer, Secretary
Department of Health and Human Resources

Rules

Rule 4.01.90

The Board adopted the Pupil Progression Plan as submitted by the Department of Education.

James V. Soileau
Executive Director

RULE **Department of Commerce** **Office of Financial Institutions**

Under authority granted by R.S. 6:902 B, the Commissioner of Financial Institutions has adopted the following rule for the purpose of providing a means by which State Chartered Savings and Loan Associations may have authority consistent with that granted Federal Associations by Federal Home Loan Bank Regulation 545.6-11 (b) (1), published in volume number 44, page 24299 of the Federal Register, dated April 25, 1979.

Rule

Notwithstanding the limitations imposed by R.S. 6:822 C, State Chartered Savings and Loan Associations may make loans for a single residential real property alteration, repair or improvement without dollar limit for a twenty-year term.

This type loan is considered to be a nonconforming loan as outlined in Federal Home Loan Bank Regulation 545.6-12 and subject to percentage of assets limitations outlined in Federal Home Loan Bank Regulation 545.6-12 (f).

Hunter O. Wagner, Jr., Commissioner
Office of Financial Institutions

RULE **Board of Trustees for** **State Colleges and Universities**

The Board of Trustees for State Colleges and Universities has amended Section 6.6 F of the Policies and Procedures Manual to read as follows:

F. Self-Assessed Fees

1. All self-assessed fee proposals voted by the students upon themselves and their successors shall be submitted by the President to the Board for final approval with his recommendations. The President shall submit the date and actual vote of the students upon making his recommendations to the Board. Each referendum shall state a specific term of assessment.

2. The Student Government Association shall submit to the President for referral to the Board, notice of any proposed referendum, providing for student self assessed fees for capital outlay or to be pledged toward the redemption of revenue bonds, at least sixty calendar days prior to the date of such referendum. Said notice of the proposed referendum shall contain the specific language to be used on the ballots and such language shall be approved by the Board prior to such an election being held.

Bill Junkin, Executive Director
Board of Trustees for State Colleges & Universities

RULE **Board of Elementary and Secondary Education**

Rule 6.01.13

The Board revised present policy and adopted revisions to Bulletin 1525, Personnel Evaluation Accountability, A Guide for Implementation, Revised 1979, as submitted by the Department of Education.

Rule 3.01.70.v(26)

The Board adopted a policy allowing elementary teachers to teach remedial math at the high school level, not for Carnegie credit, if the teacher possesses twelve semester hours in math and holds a type B certificate.

Rule 3.01.70.v(27)

The Board adopted an amendment to Bulletin 746, Louisiana Standards for Certification of School Personnel, pages 45-45a, relative to certification for parish or city school supervisors/directors of special education to read as follows:

Certification requirements may be temporarily suspended by the Board to allow the individuals to serve in the capacity of acting parish or city school supervisor/director of special education, provided the Board has approved an educational plan for the individual to complete certification requirements on or before December 31, 1980. Individuals hired or serving as an acting parish or city school supervisor/director of special education on and after January 1, 1981, must meet certification requirements when employed, or to remain employed, as a parish or city school supervisor/director of special education.

RULE **Board of Trustees for** **State Colleges and Universities**

The Policies and Procedures Manual of the Board of Trustees for State Colleges and Universities, Part VIII, Section 8.12 B, Tuition Waiver and Salaries for SGA Officers, paragraph 1 shall read as follows:

1. A waiver of tuition (as defined in Section 6.6 B of Part VI of this Manual) shall be granted by the institutions under the jurisdiction of the Board to the top three elected SGA officers at those institutions, with the exception of Delgado Vocational-Technical Junior College, where the recipients of the tuition waivers shall be the SGA Presidents and Vice-Presidents at the two Delgado College campuses. The waiver of tuition shall remain in effect for the duration of the respective terms of office.

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

RULE

Department of Education Louisiana Universities Marine Consortium

Bylaws of the Council of the Louisiana Universities Marine Consortium for Research and Education

Article I Offices

1.1 The principal office of the Council of the Louisiana Universities Marine Consortium for Research and Education, a body corporate, shall be in the city of Baton Rouge, East Baton Rouge Parish, Louisiana. Such other offices as the Council deems necessary may be established throughout the State of Louisiana.

Article II Meetings

2.1 The Council shall meet on or before the first Monday in September of each year, at other times as fixed by the Council, or upon call of the Chairman.

2.2 Special meetings may be called at any time by the Chairman, or by the Secretary, upon the written request of at least five members of the Council.

2.3 The Council may hold meetings at any location in the State of Louisiana.

2.4 Written or printed notice stating the place, day, hour and proposed agenda of the meeting shall be delivered in not less than seven days before the date of the meeting, either personally or by mail. The notice for a special meeting may be reduced from seven days to two days providing that all members of the Council waive the seven day notice requirement. Public notice of meetings shall be in accordance with the open meetings law of the State of Louisiana, Act No. 681.

2.5 Nine members of the Council shall constitute a quorum and no action may be taken without a favorable vote of at least nine members of the Council.

2.6 Proxies may not be used by or for any member of the Council at its meetings except when official alternates represent the Council members who are absent.

2.7 Meetings shall be conducted in accordance with **Robert's Rules of Order** and such other rules adopted by two-thirds vote of the members present.

2.8 The order of business of the Council shall be as follows:

- a. Call to order.
- b. Roll call.
- c. Correction and approval of the minutes of preceding regular meeting and all special meetings held subsequent thereto.
- d. Reports and recommendations of standing and special committees.
- e. Reports and recommendations of the Executive Director.
- f. Reports and recommendations of the Chairman of the Council.
- g. Reports and announcements for the general information of the Council.
- h. Resolutions for Council action.
- i. Other business.
- j. Adjournment.

2.9 Written minutes of all meetings shall be taken. Copies of said minutes shall be mailed to each member of the Council prior to the next regular or special meeting of the Council. The minutes shall be considered as tentative until approved by the Council at its next regular meeting. Upon request by said member, the vote and remarks of a member shall be recorded.

Article III Officers

3.1 The officers of the Council shall be a Chairman and Vice-Chairman, both of whom shall be members of the Council. The Executive Director of the Council shall serve as Secretary to the Council. The Chairman and Vice-Chairman shall be elected by the Council at its first meeting in September of each year and shall serve for a period of one year. Vacancies occurring in an office shall be filled by election by the Council for the remainder of the unexpired term of said office. An officer of the Council shall not succeed himself more than one time.

3.2 It shall be the duty of the Chairman of the Council to preside over all meetings of the Council, to appoint (subject to the approval of the Council) the members of all standing and special committees, and to expand any standing committee in accordance with provisions of Article IV, Section 4.2.

3.3 In the absence of the Chairman, the Vice-Chairman shall preside over the meeting of the Council.

3.4 It shall be the responsibility of the Secretary to see to the filing, indexing and preservation of all minutes, papers, and documents pertaining to the business and proceedings of the Council and of its committees, and he shall be the custodian of the seal of the Council and all the records of the Council.

An assistant secretary shall be appointed by the Council upon recommendation of the Executive Director of the Council. Such assistant secretary shall have the actual custody, under the supervision and control of the Secretary, of the seal of the Council and records of the Council and its committees.

Article IV Committees

4.1 There shall be an Executive Committee to be composed of the Chairman, the Vice-Chairman and three members to be elected annually by the Council from its membership. The Commissioner of Higher Education shall serve as an ex-officio member of the Executive Committee. The immediate past Chairman of the Council shall also be an ex-officio member of the Executive Committee provided that said past Chairman maintains Council membership. The Executive Director shall serve as the Secretary of the Executive Committee. Each member of the Executive Committee shall have the responsibility of serving as an ex-officio member of each standing committee. At the meetings of said committees, the presence of the members of the Executive Committee may be noted for the purposes of determining whether or not there is a quorum. Members of the Executive Committee may also exercise the privilege of voting.

All acts of the Executive Committee shall be submitted to the Council for ratification, or rejection, at its next meeting, except in matters where the Council shall have delegated to the Executive Committee full power to act with respect to any matter. Affirmative action by a majority of the entire membership of the Executive Committee shall be required.

4.2 The standing committees of the Council shall be:

- a. Educational Program Planning.
- b. Research Program Planning.
- c. Facilities.
- d. Library.

Only Council members may serve on committees of the Council; however, Council members may delegate their committee responsibilities to their official alternates.

4.3 The Chairman of the Council may appoint other committees which it deems necessary with such functions, powers and authority as may be determined. Unless otherwise provided in the action creating such a committee, the Chairman of the Council shall determine the number of its members and designate the chairman and vice-chairman thereof. The Chairman of the Council

cil may also appoint *ad hoc* committees for special assignments for specified periods of existence not to exceed the completion of the assigned task.

Only Council members may serve on the special committees of the Council; however, Council members may delegate their committee responsibilities to their official alternates.

4.4 The committees shall each have a Chairman who shall be the presiding officer and a Vice-Chairman to preside in the Chairman's absence, each of whom shall be appointed by the Chairman of the Council, subject to the Council's approval.

4.5 A majority in number of the members of each committee shall constitute a quorum. A favorable vote of two-thirds said quorum shall be necessary to take affirmative action.

Article V Staff

5.1 The Council shall employ a Chief Administrative Officer whose title shall be Executive Director for the Louisiana Universities Marine Consortium for Research and Education and such additional employees as it may deem necessary for the performance of its functions. The duties and responsibilities of the Executive Director shall be as prescribed by Act 557 and as prescribed by the Council.

Article VI Finances

6.1 The Council shall annually adopt a budget covering the period from July 1 to June 30 of each fiscal year. Such budget shall be recommended to the Council by the Executive Committee, which shall serve as the Finance Committee to review the budget for presentation to the Council.

6.2 Once the budget is adopted, the obligations therein reflected may be incurred by the Council.

Article VII Adoption of Rules Publications and Amendments

7.1 These rules were presented to and adopted by the Council in the State of Louisiana on this the first day of November, 1979.

7.2 These rules shall forthwith be published in the *Louisiana Register*.

7.3 These rules may be amended at any regular or special meeting, provided notice of such proposed amendment is submitted to the Council in accordance with the provision of Article II, Section 2.4.

Dr. H. D. Hoese, Interim Director
LUMCON Council

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, does hereby adopt effective April 1, 1980, the following revision in the definition of a resident of the state as it relates to the Aid to Families with Dependent Children (AFDC) Program and the Title XIX, Medical Assistance Program. These revisions are mandated by federal regulations as specified in the *Federal Register*, Volume 44, Number 138, Tuesday, July 17, 1979, pages 41434 and 41459. Adoption of these revisions is necessary in order to comply with the Federal Regulations.

Residence Requirements for AFDC Eligibility

1. A person who is living in the state voluntarily with the intention of making his home there and not for a temporary purpose, or with respect to a child, the State in which he is living other than on a temporary basis; or alternatively,

2. A person who is living in the state, is not receiving assistance from another state, and entered the state with a job commitment or seeking employment in the state (whether or not he or she is currently employed). A child living with a caretaker who qualifies under this definition is a resident of the state in which the caretaker is a resident.

Residence is retained until abandoned, and temporary absence, with subsequent returns to the state or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of residence.

Residence Requirements for Title XIX Medicaid Eligibility

Residence requirements as outlined below shall be applied in determining the State of residence for an applicant or recipient of Title XIX (Medicaid) benefits:

A. State Residence of Individuals Under Age 21.

1. For a recipient of state supplementation, the state of residence is the state making the payment.

2. Non-institutionalized Individuals.

a. For an individual receiving SSI benefits, the state of residence is the state in which the recipient is physically present.

b. For any other non-institutionalized individual, the state of residence is subject to categorical eligibility requirements.

3. Institutionalized Individuals.

a. For an individual placed by a state, the state of residence is the state which makes the placement. For Louisiana, this includes children placed by the Division of Evaluation and Services under the Foster Care Program and the former ECA Program. (Former ECA children must be SSI recipients to be eligible for Medicaid.) Institutionalized applies to individuals in Title XIX, Long Term Care facilities.

b. For an individual placed privately, the state of residence is the state of the parent(s) or legal guardian. (If only one parent applies on behalf of the child, the state of residence is the state of the parent who applies; if there is no parent or legal guardian, the state of residence is the state where the child is institutionalized.)

B. State Residence of Individuals Age 21 or Older.

1. For a recipient of state supplementation, the state of residence is the state making the payment.

2. For non-institutionalized individuals, the state of residence is the state in which the individual is physically present (unless he indicates otherwise).

3. Institutionalized Individuals.

a. For an individual capable of stating intent, the state of residence is the state in which the individual is physically present with intent to remain.

b. For an individual who became incapable of stating intent before age 21 and there is no curator or legal guardian, the state of residence is determined as in A. 3. above.

c. For an individual who became incapable of stating intent at or after age 21, the state of residence is the state where he was living when he became incapable of stating intent. If this cannot be determined, the state of residence is the state where the individual was living when he was first determined incapable of indicating intent. When it is not possible to determine where an individual was living when he became incapable of stating intent, he shall be considered a resident of Louisiana.

C. Criteria for Individuals Incapable of Stating Intent.

An individual is considered incapable of stating intent if:

1. His I.Q. is 49 or less; or

2. He is judged mentally incompetent; or
3. Medical reports or other information available support the fact that he is incapable of stating intent.

D. Currently Certified Recipients.

Until October 15, 1981, Louisiana will remain responsible for providing Title XIX, Medicaid coverage to any currently institutionalized recipient unless an interstate agreement is arranged with the new state of residence to assume Title XIX responsibility for the needed service at an earlier date. This "grandfather provision" is to protect the individual who would lose needed services as a result of his residency being changed and the new state of Title XIX responsibility will not make out-of-state payments for the service.

The Medical Assistance and Assistance Payments Programs in the state office will coordinate on the referred cases and correspond with other states to work out an agreement of their acceptance of Title XIX responsibility.

E. New and Pending Applications.

Applications opened on or after April 1, 1980, shall be rejected if the applicant does not meet residence requirements for Louisiana. A letter shall be sent to the State agency in the state of current Title XIX residence.

George A. Fischer, Secretary
Department of Health and Human Resources

RULE

**Department of Health and Human Resources
Office of Licensing and Regulation
Division of Health Planning and Development**

In accordance with the provisions of Public Law 93-641 and Public Law 96-79 the Department of Health and Human Resources will conduct a program in Louisiana to review the appropriateness of existing institutional health services. The attached rules, definitions, schedules, and priorities are adopted by the Department of Health and Human Resources in its capacity as the State Health Planning and Development Agency. These policies shall apply to all existing institutional health services defined as such by the rules and regulations implementing appropriateness review.

Documents containing those rules, regulations, procedures, guidelines, standards and criteria which shall be used in conducting appropriateness review are as follows:

1. Federal Register, Vol. 44, No. 239 - Tuesday, December 11, 1979, pages 71754-71772 pertaining to Parts 122 and 123 of Title 42, CFR, "Health Systems Agency and State Agency Reviews of the Appropriateness of Existing Institutional Health Services".
2. Document entitled "Appropriateness Review, Division of Health Planning and Development" (see below).
3. Document entitled "Division of Health Planning and Development Annual Work Program/Progress Report".
4. Document entitled "An Agreement Performance of Appropriateness Review in the State of Louisiana".

**Appropriateness Review
Division of Health Planning and Development**

The appropriateness review program in Louisiana will include review of the following institutional health services: End-Stage Renal Disease (ESRD) Services, Open Heart Surgery, Cardiac Catheterization, Radiation Therapy, Computerized Tomographic (CT) Scanning, Long-Term Care, Obstetrical Services, Neonatal Special Care Units, Pediatric Services, Medical Surgical Services.

The following schedule will be followed in the conduct of the appropriateness review program:

	Service	Deadline for HSA Findings	Deadline for DHPD Findings
I	End-Stage Renal Disease (ESRD) Services	Dec. 11, 1980	Dec. 11, 1981
II	Open Heart Surgery Cardiac Catheterization	June 11, 1981	June 11, 1982
III	Radiation Therapy CT Scanning	Dec. 11, 1981	Dec. 11, 1982
IV	Long-Term Care	June 11, 1982	June 11, 1982
V	Obstetrical Services Pediatric Services Neonatal Special Care Units Medical Surgical Services	Dec. 11, 1982	Dec. 11, 1983

For purpose of this program, the above services will be defined as follows:

ESRD Services: Maintenance services utilizing hemodialysis, a procedure by which a machine performs the functions of the kidney, cleansing impurities from the blood by passing it across a semi-permeable membrane. These services can be performed at home, in a freestanding facility, or in a hospital.

Open Heart Surgery: Services in which open heart surgery is performed using a heart - lung bypass machine to perform the functions of the heart during surgery.

Cardiac Catheterization: Services involving a procedure for diagnosing disorders of the heart, lung and the great vessels with the resource capability to insert catheters into the heart and adjacent great vessels, to reliably measure multiple parameters of cardiac physiologic activity, and obtain visualization of the appropriate heart chambers and adjacent vessels.

Radiation Therapy: Services employing the use of high energy ionizing radiation for the treatment of disease.

CT Scanning: Diagnostic Services utilizing radiologic machines which record the variations in bone and tissue densities produced when an x-ray beam is passed through a patient's body.

Long-Term Care: Institutional health care services provided by hospitals and nursing homes to individuals who require health care services above the level of room and board on a long-term basis due to chronic illness, age or disability. Three levels of care are included in this definition:

Skilled Nursing Facilities (SNF) - Provide nursing care which is intensive, frequent and comprehensive under the direction of a physician. SNF care can be provided only by and under the supervision or observation of a professional registered nurse or licensed practical nurse on a continuous basis over an entire twenty-four hour period. SNF beds may also be used to care for ICF I and ICF II patients.

Intermediate Care Facility I (ICF I) - Provides basic nursing care and services under the direction of a physician. This care can be provided only by and under the supervision of a professional registered nurse on a continuous basis over an entire twenty-four hour period. ICF I beds may be used to care for patients requiring ICF II level care.

Intermediate Care Facility II (ICF II) - Provides primarily supervised personal care and health-related services under the direction of a physician. This care usually can be provided by trained aides and orderlies under the supervision of a professional registered nurse or licensed practical nurse and does not require nursing care on a continuous basis. ICF II beds may only be used to care for patients requiring ICF II level care.

Obstetrical Services: Services provided in a hospital for the maternity patient in accordance with the level of care needed: