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# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Health and Human Resources  
Office of Family Security

In accordance with the provisions of R.S. 40:29, the Department of Health and Human Resources, Office of Family Security has implemented the following policy regarding the disclosure of information by institutions and organizations providing Medicaid services:

1. Medicaid providers and fiscal intermediaries/agents are required to disclose to the Medical Assistance Program, certain information about owners, employees, and suppliers (i.e., identification of owners' names, common ownership, ownership in a sub-contractor);

2. The Medical Assistance Program is authorized to refuse to enter into or renew an agreement with a provider, if any of its owners, officers, directors, agents, or managing employees have been convicted of a criminal offense involving any of the programs under Titles XVIII, XIX, or XX of the Social Security Act;

3. The Medical Assistance Program is authorized to terminate an agreement with a provider who fails to disclose fully and accurately the identity of any of its owners, officers, directors, agents, or managing employees who have been convicted of a program-related criminal offense at the time of entering into the agreement;

4. In addition to the Louisiana Medical Assistance Program, the Secretary of the Department of Health, Education and Welfare has been authorized to have access to Medicaid providers' records; and

5. The State Medicaid Fraud Control Unit has been authorized to have direct access to Medicaid providers' records rather than having to access them through the Medical Assistance Program.

This action will allow the Medical Assistance Program to be in compliance with newly published federal regulations, 42 CFR, parts 403, 420, 431, and 455, effective October 15, 1979, which were published in the August 17, 1979, *Federal Register*, Volume 44, Number 138, pages 41636-41646. Compliance with these regulations assures continued federal financial participation in Louisiana's Medical Assistance Program.

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

# Rules

## RULES

Department of Commerce  
Board of Certified Public Accountants

*(Editor's Note: The following rules were numbered in accordance with the numbering system to be used in the Louisiana Administrative Code. Numbers in parentheses following each section heading (example: R.S. 37:71) refer to the particular statute which the section implements.)*

### LAC 11-9:1 Definitions (R.S. 37:71)

1.0 The definitions included in the Act are used herein with the following additions:

1.1 The term "the Act" means Act 510 of the 1979 Regular Session of the Louisiana Legislature or as it may hereafter be amended.

1.2 The term "accountants' report" shall mean a report

1.2.1 rendering any opinion or statement, or denying an opinion, that financial statements or elements thereof are presented, prepared or compiled in accordance with generally accepted accounting principles or any other comprehensive basis of accounting and/or

1.2.2 referring to an audit, examination, review or lack thereof.

1.3 The term "accredited university or college" shall mean a university or college accredited by the Southern Association of Colleges and Schools, Commission on Colleges, or by any one of the six other regional accreditation associations.

1.4 The term "CPA examination" means the examination required for a certificate as a certified public accountant.

1.5 The term "enterprise" shall mean any person or entity, whether organized for profit or not, for which a licensee performs professional services.

1.6 The term "firm" shall mean a proprietorship, partnership, or professional corporation engaged in the practice of public accountancy.

1.7 The term "generally accepted accounting principles" shall mean those standards promulgated by the Financial Accounting Standards Board and its predecessor entities and similar pronouncements issued by other entities having similar generally recognized authority.

1.8 The term "generally accepted auditing standards" shall mean those auditing standards promulgated by the American Institute of Certified Public Accountants or its successor.

1.9 The term "licensee" means a person licensed to practice public accounting by the Board.

1.10 Masculine terms shall include the feminine and, when the context requires, shall include partnerships and/or professional corporations.

1.11 Where the context requires, singular shall include the plural or plural shall include the singular.

### LAC 11-9:2 Special Definitions;

#### Public Accountancy; Exceptions (R.S. 37:72)

2.1 The term "public accounting" as used in the Act shall mean:

2.1.1 Rendering an accountants' report.

2.1.2 All services offered or performed for the public by anyone that involve issuing an opinion or certificate attesting in any way to the reliability of the representation; or that involve an audit, examination, review, or compilation of the financial records leading to a written accountant's report.

2.2 Public accounting shall not include the following if performed by a person who is not a certified public accountant or who is an unlicensed certified public accountant, provided that such person does not indicate, in connection with his signature or otherwise, that he is a public accountant or certified public accountant:

2.2.1 The keeping of books and related accounting records, including payroll records and preparing trial balances.

2.2.2 The compilation of financial statements as long as an accountant's report is not rendered thereon.

2.2.3 The preparation of tax returns to be filed with any federal, state, parish or municipal office or agency, provided the preparation of such returns by persons other than CPAs is not prohibited by law or regulations of the office or agency.

2.2.4 The service or function performed by the Legislative Auditor in the discharge of the duties of his office.

### LAC 11-9:3 Domicile: New Appointee (R.S. 37:73)

3.1 The principal office and official address of the Board to which communications should be sent is State Board of Certified Public Accountants of Louisiana, Masonic Temple Building, 333

St. Charles Avenue, New Orleans, Louisiana 70130.

3.2 A new appointee to the Board shall be seated at the first Board meeting he attends following his qualification as required by R.S. 37:74.

#### **LAC 11-9:4 Operating Procedures (R.S. 37:75)**

4.1 The officers shall be President, Secretary, and Treasurer. The duties of the respective officers shall be the usual duties assigned to the respective office. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which elected.

4.2 The fiscal year of the Board shall end on June 30 of each year. The annual meeting shall be held as soon as practical after the close of the fiscal year, at which meeting the Board shall elect its officers who shall serve until the next annual meeting or until their successors are elected.

4.3 Any meeting may be called by the President or by joint call of at least two of its members, to be held at the principal office of the Board, or at such other place as may be fixed by the Board.

4.4 Meetings of the Board shall be conducted in accordance with *Robert's Rules of Order* insofar as such rules are compatible with the laws of the state governing the Board or its own resolutions as to its conduct.

4.5 It shall be the duty of the Secretary to determine when the prerequisites and procedures required by the Act and by the Board for taking the CPA examination have been satisfactorily completed by an applicant.

4.6 The Secretary shall determine when, in his opinion, the prerequisites and procedures required by the Act and by the Board shall have been satisfactorily completed in respect to issuance of certificates and/or licenses and he shall submit at each meeting of the Board, for its approval or disapproval, current tabulations thereof, listing the names of the persons concerned.

4.7 The Secretary shall list in the minutes of the Board all persons approved for the issuance of certificates and/or licenses and all persons whose certificates and/or licenses are revoked, suspended, or reinstated.

4.8 It shall be the responsibility of the Secretary to see that an official register of all certified public accountants who have received certificates from the Board is maintained.

4.9 It shall be the responsibility of the Secretary that an annual listing of all certified public accountants licensed to practice is maintained.

4.10 The Treasurer shall be responsible for the maintenance of the accounts of the Board and the preparation of a financial report once a year, as of June 30, and shall submit an annual budget to the Board for its approval.

#### **LAC 11-9:5 Rules of Professional Conduct (R.S. 37:75)**

5.1 Preamble. The services usually and customarily performed by those in the public practice of accountancy involve a high degree of skill, education, trust, and experience which are professional in scope and nature. The use of professional designations carries an implication of possession of the competence associated with a profession. The public, in general, and the business community, in particular, rely on this professional competence by placing confidence in reports and other services of accountants. The public's reliance, in turn, imposes obligations on persons utilizing professional designations, both to their clients and to the public in general. These obligations include maintaining independence of thought and action, continuously improving professional skills, observing, where applicable, generally accepted accounting principles and generally accepted auditing standards, promoting sound and informative financial reporting, holding the affairs of clients in confidence, upholding the standards of the public accountancy profession, and maintaining high standards of personal and professional conduct in all matters affecting fitness to practice public accountancy.

The Board has an underlying duty to the public to insure that these obligations are met in order to achieve and maintain a vigorous profession capable of attracting the bright, young minds

essential for adequately serving the public interest.

The rules are intended to have application to all kinds of professional services performed for the public in the practice of public accountancy, including services relating to accounting, auditing, taxation, and management advice and consultation, to mention only the broad areas in which services are currently being offered by those in the practice of public accountancy. A licensee who is engaged in the practice of public accountancy outside the United States may conduct that practice in accordance with the standards of professional conduct applicable to the country in which he is practicing. However, if a licensee's name is associated with financial statements so as to indicate that he is acting as an independent certified public accountant using principles applicable in this country, he shall comply with the rules of competence and technical standards.

In the interpretation and enforcement of these rules, the Board may consider relevant interpretations, rulings, and opinions issued by the Boards of other jurisdictions and appropriate committees of professional organizations, but will not be bound thereby.

#### **5.2 Independence, Integrity, and Objectivity.**

5.2.1 Independence. A licensee shall not express an opinion on financial statements of an enterprise in such a manner as to imply that he is acting as an independent public accountant with respect thereto unless he is independent with respect to such enterprise. A licensee who signs or uses his name in connection with a professional service as to which he is not independent as contemplated herein shall indicate clearly that he is not independent by use of a title to reflect his status or by some other means. Independence will be considered to be impaired if, for example:

A. During the period of his professional engagement or at the time of expressing his opinion, the licensee:

1. Had or was committed to acquire any direct or material indirect financial interest in the enterprise; or

2. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had, or was committed to acquire, any direct or material indirect financial interest in the enterprise; or

3. Had any joint, closely-held business investment with the enterprise or any officer, director, or principal stockholder thereof which was material in relation to the net worth of either the licensee or the enterprise; or

4. Had any loan to or from the enterprise or any officer, director, or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms, and requirements:

a. Loans obtained by the licensee which are not material in relation to the net worth of the borrower; and

b. Home mortgages; and

c. Other secured loans, except those secured solely by a guarantee of the licensee.

B. During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the licensee:

1. Was connected with the enterprise as a promoter, underwriter, or voting trustee, a director or officer, or in any capacity equivalent to that of an owner, a member of management, or of an employee; or

2. Was a trustee for any pension or profit sharing trust of the enterprise.

The foregoing examples are not intended to be all-inclusive. For the purposes of this rule, the licensee, his spouse, descendants, and relatives living in the same household shall be considered together.

5.2.2 Integrity and objectivity. A licensee in the performance of professional services shall neither knowingly misrep-

resent facts not subordinate his judgment to that of others. In tax practice, however, a licensee may resolve doubt in favor of his client as long as there is reasonable support for his position.

5.2.3 Commissions. A licensee shall not pay a commission to obtain a client or accept a commission for a referral to a client of products or services of others. This rule does not prohibit payments for the purchase of all, or a part, of an accounting practice, or retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs of estates of such persons.

5.2.4 Contingent fees. A licensee shall not offer or perform professional services for a fee which is contingent upon the findings or results of such services; provided, however, this rule does not apply to professional services involving federal, state, or other taxes in which the findings are those of the tax authorities and not those of the licensee, nor does it apply to professional services for which the fees are to be fixed by courts or other public authorities and which are therefore indeterminate in amount at the time the professional services are undertaken.

5.2.5 Incompatible occupations. A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs his independence or objectivity in rendering professional services, or which is conducted so as to augment or benefit the accounting practice unless these rules are observed in the conduct thereof.

5.3 Competence and Technical Standards.

5.3.1 Competence. A licensee shall not undertake any engagement for the performance of professional services which he cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with Rules 5.3.2 and 5.3.3 below.

5.3.2 Auditing standards. A licensee shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as a certified public accountant with respect to such financial statements unless he has complied with applicable generally accepted auditing standards. Statements on auditing standards issued by the American Institute of Certified Public Accountants, and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures therefrom must be justified by those who do not follow them.

5.3.3 Accounting principles. A licensee shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements depart from such accounting principles so as to produce a material effect on the financial statements taken as a whole, unless the licensee can demonstrate that by reason of unusual circumstances the financial statements would otherwise have been misleading. In such a case, the licensee's report must describe the departure, the approximate effects thereof, if practicable, and the reasons that compliance with the principle would result in a misleading statement.

5.3.4 Forecasts. A licensee shall not in the performance of professional services permit his name to be used in conjunction with any forecast of future transactions in a manner which may reasonably lead to the belief that the licensee vouches for the achievability of the forecast.

5.4 Responsibilities to Clients.

5.4.1 Confidential client information. A licensee shall not, without the consent of his client, disclose any confidential information pertaining to such client obtained in the course of performing professional services.

A. This rule does not

1. Relieve a licensee of any obligations under Rules 5.3.2 and 5.3.3, or
2. Affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order

of a court, or

3. Prohibit disclosures in the course of a quality review of a licensee's professional services, or

4. Preclude a licensee from responding to any inquiry made by the Board or any investigative or disciplinary body established by law or formally recognized by the Board.

B. Members of the Board, their duly authorized agents, and professional practice reviewers shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to a duly authorized investigative or disciplinary body of the kind referred to above.

5.4.2 Records. For a reasonable charge, a licensee shall furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question:

A. A copy of a tax return of the client; and

B. A copy of any report, or other document, issued by the licensee to or for such client; and

C. Any accounting or other records belonging to, or obtained from, or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, but the licensee may make and retain copies of such documents when they form the basis for work done by him; and

D. A copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

5.5 Other Responsibilities and Practices.

5.5.1 Discreditable acts. A CPA shall not commit any act that reflects adversely on his fitness to engage in the practice of public accountancy.

5.5.2 Acting through others. A CPA shall not permit others to carry out on his behalf, either with or without compensation, acts which, if carried out by the CPA, would place him in violation of the Rules of Professional Conduct.

5.5.3 Advertising.

A. Licensees shall have the right to advertise. However, a licensee shall not use or participate in the use of any public communication or advertisement which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes but is not limited to a statement or claim which:

1. Contains a misrepresentation of fact; or

2. Is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or

3. Contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality, or statements intended to attract clients by use of showmanship, hucksterism, slogans, jingles, or other garish language; or

4. Is intended or likely to create false or unjustified expectations of favorable results; or

5. Implies educational or professional attainments or licensing recognition not supported in fact; or

6. States or implies that the licensee has received formal recognition as a specialist or claims any specialized expertise in any aspect of the practice of public accountancy, if this is not the case; or

7. States or implies that the licensee's ingenuity and/or prior record are principal factors likely to determine the results of the services rather than the merit of the facts involved, or contains statistical data or information so as to reflect past performance or predict future success; or

8. Represents that professional services can or will

be completely performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or

9. Contains other representations or implications beyond those set forth in B below that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived; or

10. Implies the ability to influence any court, tribune, regulatory agency or similar body or any official thereof; or

11. Makes comparison with other CPAs.

B. As an example, a licensee may use or participate in the use of a public communication which states in a dignified manner the following information about the licensee and any associated licensees:

1. Name, firm name, address, telephone numbers, office hours, and telephone-answering hours;

2. Biographical and educational background;

3. Professional memberships and attainments;

4. Description of services offered;

5. The limitation of practice to certain areas of service;

6. The opening or change in location of any office and changes in personnel;

7. Fees charged for the initial consultation, for specific services of average complexity, and hourly rates. Quoted fees must be adhered to for a reasonable period not less than thirty days after the publication.

C. All licensees shall retain copies or recordings of all public communications by date of publication for a period of at least three years.

5.5.4 Solicitation. A licensee shall not by any direct personal communication solicit an engagement to perform professional services

A. If the communication would violate Rule 5.5.3 above if it were a public communication; or

B. By the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harrassing conduct; or

C. Where the engagement would be for a person or entity not already a client of the licensee, unless such person or entity has invited such a communication or is seeking to secure the performance of professional services and has not yet engaged another to perform them.

5.5.5 Form of practice. A licensee may practice public accountancy only in a proprietorship, a partnership, or a professional corporation organized in accordance with the Louisiana Professional Accounting Corporations Law or similar law of another state.

5.5.6 Firm name. The name under which a licensee practices public accounting must indicate clearly whether he is an individual practicing in his own name or a named member of a partnership or professional accounting corporation. The words "and Associates" or "and Company" or similar words shall be used only to denote unnamed partner(s) of a partnership or shareholder(s) of a professional accounting corporation. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. Also, a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner or sole shareholder. No licensee shall allow a person who is not a licensee, and who is not in partnership with him or in his employ on a salary, to practice in his name. If a firm is incorporated, words so indicating must appear in or with the firm name each time it is used.

5.5.7 Communications. A CPA shall, when requested, respond to communications from the Board within thirty days of

the mailing of such communications by registered or certified mail.

5.5.8 Applicability. All of the Rules of Professional Conduct shall apply to and be observed by licensees. Notwithstanding anything herein to the contrary, they shall also apply to and be observed by CPAs not in public practice, where applicable.

#### LAC 11-9:6 Requirements for Continuing Professional Education (R.S. 37:75)

6.1 Basic Requirements.

6.1.1 Each licensee shall participate in at least one hundred twenty hours of continuing professional education every three years. However, for the three-year period ending December 31, 1982, only sixty hours shall be required and, for the three-year period ending December 31, 1985, only ninety hours shall be required. The hours of a licensee to whom Rule 6.1.2B applies shall be reduced prorata for the compliance period containing his effective date.

6.1.2 Effective date.

A. As to any licensee who was licensed as of January 1, 1980, the effective date of these requirements shall be January 1, 1980.

B. As to any licensee who obtains his initial license after January 1, 1980, the effective date of these requirements shall be January 1 of the following year.

6.1.3 Compliance period.

A. The first compliance period for continuing professional education shall be the three-year period ending December 31, 1982, and subsequent compliance periods shall end on December 31 each third year thereafter.

B. Election to maintain records on other than calendar year (fiscal year).

1. A licensee may elect to maintain records of continuing professional education on a "fiscal year." In such case, the continuing education requirements must be completed in the fiscal year ended within the last year of the compliance period. Also in such case, a licensee may claim credit for qualifying programs completed in the part of the fiscal year falling in the calendar year prior to the effective date applicable to him, if proper records of participation in such programs are maintained in accordance with Rule 6.6 below.

2. Once a calendar or fiscal year has been established, a change therein may be made only with the approval of the Board, which approval shall be based on a pro rata of the requirements having been completed during any months that are not included in a three-year period as a result of the change. The Board may, at its discretion, permit a change where such pro rata of the requirements has not been completed, if it is agreed that such additional continuing education requirements will be completed by a stated future date.

6.1.4 The Board may require of a certified public accountant who wishes to reenter practice after having allowed his license to lapse

A. That he first complete a specified number of hours (not to exceed ten) of continuing education programs and/or

B. That he complete a specified number of hours (not to exceed ten) of continuing education programs each calendar quarter for no more than four quarters following the granting of his license. The Board may specify the subjects which must be taken for no more than ten of the hours required in this section. In determining the number of hours, it will specify, whether any programs must be completed prior to license renewal, and whether any subjects will be specified, the Board will take into consideration the time period the applicant was without a license and recent occupation(s), business responsibilities, and continuing education of the applicant.

6.1.5 The Board may, at its sole discretion, make exceptions