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# Executive Order

## EXECUTIVE ORDER DCT 80-21

WHEREAS, the Division of State Buildings and Grounds is responsible for the maintenance and repair of all State buildings on State grounds; and

WHEREAS, the Division of State Buildings and Grounds is responsible for entering into contracts for repairs and purchases for all State buildings on State grounds on a statewide basis; and

WHEREAS, the Division of Administration is the fiscal arm of the Governor and is charged with the budgetary oversight of many of the agencies in those State buildings; and

WHEREAS, the opportunity exists to effect a sizeable savings for the State of Louisiana through the review and approval processes of the Division of Administration; and

WHEREAS, usage of State buildings and grounds is key to the planning by the Division of Administration,

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, do hereby direct the Commissioner of Administration to assume responsibility for and authority over the Superintendent of the Division of State Buildings and Grounds.

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 18th day of December, A.D., 1980.

David C. Treen  
Governor of Louisiana

# Emergency Rules

## 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, will discontinue effective February 1, 1981 the allowance, implemented June, 1979, of an eight percent incentive factor based on gross cost for those Private for-profit Intermediate Care Facilities for the Mentally Retarded with an occupancy rate above eighty-five percent.

The above described action is necessary as the Department of Health and Human Resources has been unable to secure the Department of Health and Human Services' approval of the plan material submitted to implement this policy.

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

## DECLARATION OF EMERGENCY

### Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, does hereby exercise the emergency provision of the Administrative Procedures Act (R.S. 49:953B) to adopt effective January 1, 1981, the following increases in the Aid to Families with Dependent Children (AFDC) and General Assistance (GA) Need Standards. This action is mandated by Act 540 of the 1976 Louisiana Legislature which requires an annual adjustment of the need standard to reflect the increase in the cost of living. This action will allow needy families and individuals to receive the public assistance to which they are entitled.

Using a 14.4 percent increase standard, the proposed new AFDC and GA Need Standards are outlined below while current needs standards are shown in parentheses.

#### AFDC Need Standards

Size of Household	Non-Urban	Urban
1	\$159(139)	\$173(151)
2	296(259)	331(289)
3	419(366)	460(402)
4	522(456)	565(494)
5	621(543)	667(583)
6	712(622)	760(664)
7	805(704)	849(742)
8	895(782)	939(821)
9	979(856)	1025(896)
10	1067(933)	1112(972)
11	1160(1014)	1206(1054)
12	1256(1098)	1302(1138)
13	1358(1187)	1395(1219)
14	1456(1273)	1494(1306)
15	1557(1361)	1595(1394)
16	1657(1448)	1702(1488)
17	1757(1536)	1785(1560)
18	1857(1623)	1898(1659)
	For each additional person, add \$108.00	For each additional person, add \$118.00

#### GA Need Standard

Size of Household	GA Need Standard
1	\$262(229)
2	\$331(289)

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

# Rules

## RULE

### Department of Agriculture Horticulture Commission

The Louisiana Horticulture Commission, State Department of Agriculture, pursuant to the authority given in LSA 37:1964 B, and in accordance with Notice of Intent published on

October 20, 1980, has adopted the following Rule relative to examination fees for licensure in Landscape Architecture:

1. All applicants for examination for licensure as a landscape architect shall apply for such examination no later than March 15 of each year.

2. All applicants for examination for licensure as a Landscape architect shall pay an examination fee of \$150.00 at the time application for such examination is made.

Bob Odom  
Commissioner of Agriculture

## **RULE**

### **Department of Agriculture Livestock Sanitary Board**

Notice is hereby given that on January 9, 1981, the Louisiana Livestock Sanitary Board, in accordance with the authority given under LSA 3:2096 and pursuant to notice published on December 20, 1980, adopted the following Rule as an addition to Regulation 12 of the Rules and Regulations of the Livestock Sanitary Board, being a new Sub-part 6:

No person, firm, association, or corporation shall manufacture, distribute, or sell any animal vaccine other than those covered above within the State of Louisiana unless such person, firm, association, or corporation can prove to the Board that he (it) is currently the holder of a valid Federal license to manufacture, distribute, or sell such animal vaccine, provided that this Rule shall not apply to any person, firm, association, or corporation which is the holder of a special permit from the State Veterinarian at the effective date of this regulation.

Bob Odom  
Commissioner of Agriculture

## **RULE**

### **Department of State Civil Service Board of Ethics for Elected Officials Chapter 1 Definitions**

Unless the context clearly indicates otherwise, the following words, terms and phrases when used in these Rules shall have the following meanings:

1.1 "Agency", "Agency head", "Assist", "Board", "Compensation", "Elected Official", "Participate", "Person", "Service", and "Thing of Economic Value" shall have the identical meanings attributed to them in Section 1102 of the Code of Governmental Ethics.

1.2 "Executive Secretary" shall mean the chief administrative and executive officer appointed by the Board pursuant to the provisions of Section 1134(2) of the Code.

1.3 "Preliminary investigation" means a staff investigation conducted pursuant to directions by the Board to the Executive Secretary.

1.4 "Private hearing" means the taking of evidence by the Board during a proceeding which is not open to the public.

1.5 "Public hearing" means the taking of evidence by the Board during a proceeding that is open to the public.

1.6 "Respondent" means an elected official or person who is the subject of a complaint.

## **Chapter 2**

### **Organization, Rules, Procedures, and Powers of the Board**

#### **2.1 Election of the Chairman.**

(a) The members of the Board shall meet and organize by electing one of its members Chairman. In case of a vacancy in the office of Chairman, the Board shall elect a new Chairman.

(b) The Chairman shall be elected at the first meeting held following July 1 of each odd numbered year commencing with July 1, 1980 for a two-year term.

#### **2.2 Powers of the Board.**

The Board is empowered:

(a) To represent the public interest in the administration of the provisions of the Code.

(b) To administer and enforce the provisions of the Code and the Rules, regulations and orders consistent with and adopted or issued thereunder.

(c) After public hearing, to adopt, promulgate and issue Rules and regulations carrying out and consistent with the policies and purposes of the Code, and amendments to such Rules and regulations.

(d) To consider complaints concerning violations of the provisions of the Code involving officials and other persons who are within the jurisdiction of the Code, and to either (1) dismiss the complaint; (2) pretermitt the complaint; or (3) make charges based upon such complaints and its investigations.

(e) To order preliminary investigations upon receipt of complaints.

(f) To order and conduct hearings of complaints of violations of the provisions of the Code.

(g) To issue orders and take authorized action, at or following a public hearing, against any elected official or other person adjudged to have violated one or more of the provisions of the Code.

(h) For the purposes of an investigation or of a hearing, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other evidence, which the Board deems relevant or material to the investigation or hearing.

Such attendance of witnesses and the production of any such evidence may be required at any place designated by the Board.

(i) To make official determinations of its findings as to the validity of complaints and charges; and where substantial evidence to support complaints or charges is not adduced, to close its files.

(j) To render advisory opinions to officials and affected persons, or to decline to do so, with respect to the provisions of the Code and Rules and regulations issued by the Board.

(k) To provide reports, information and recommendations to the Governor and the Legislature concerning the administration of the Code and conflict of interest matters generally.

(l) To receive reports from agencies and collect information with respect to, and conduct studies of, personal conflicts of interest of officials within its jurisdiction.

(m) To appoint an Executive Secretary.

(n) To prescribe rules of order, evidence and procedure to govern its meetings, hearings and investigations.

(o) To take such steps as may be necessary to maintain proper order and decorum during the course of its hearings and other proceedings, consistent with the resolution of matters coming before it for consideration.

(p) To issue informational releases to the news media with respect to all activities of the Board other than executive meetings, private investigations and private hearings.

(q) To perform such other acts as may from time to time be required of it by the Constitution or by Statute.

(r) To consider and take appropriate action on sworn statements filed in accordance with Section 111 E(2) of the Code.

(s) Any Board member may require the inclusion on the agenda for Board consideration of any matter of interest to him.

### 2.3 Meetings.

(a) The Board shall meet at such time and place as may be fixed by the Board, its Chairman, or its Executive Secretary.

(b) Notice of each meeting shall be given to all members of the Board, and to the general public.

(c) All meetings shall be open to the public except investigations and Board meetings in relation thereto and meetings authorized by other provisions of law to be closed to the public.

### 2.4 Quorum and Voting.

(a) Three members of the Board shall constitute a quorum for the transaction of business.

(b) The concurrence of a majority of the members present shall constitute a ruling upon an item of business then before the Board, except as otherwise provided in Section 1141 D(5).

(c) In the event of a tie vote the Board may, in its discretion:

1. Refer a transcript of the record of the matter under consideration to one or more absent members, who shall then vote; or

2. Continue the matter for consideration at a later meeting.

(d) Temporary absence during the consideration of an item of business shall not disqualify a member from voting on said item.

### 2.5 Executive Secretary to the Board.

The Board shall appoint an Executive Secretary.

### 2.6 Minutes of Proceedings.

The Minutes of the proceedings of the Board shall be prepared and maintained by the Executive Secretary on behalf of and subject to the approval of the Board.

### 2.7 Rules of Order.

The Board shall not be bound by rules, evidence, or procedure in its meetings, or investigations, except such as it may itself establish and except as otherwise provided in Section 1141 D(2).

### 2.8 Recusation.

Any member of the Board having a personal interest in an investigation or hearing by the Board shall recuse himself from participation in such investigation or hearing. If a member becomes the subject of an investigation or hearing, he shall recuse himself from participation in such investigation or hearing.

### 2.9 Adoption of Rules.

(a) Rules shall be adopted in accordance with the procedures contained in the Administrative Procedure Act.

(b) No appeal shall lie from the adoption by the Board, after public hearing, of any Rule or amendment thereto.

### 2.10 Amendments to the Rules.

Amendments to the Rules shall be approved by the Board only after a public hearing. Such amendments shall become effective upon adoption by the Board, unless otherwise specifically provided.

### 2.11 Public Inspection.

The Board shall make available for public inspection:

(a) All Rules and all other written statements of policy or interpretation formulated, adopted, or used by it in the discharge of its functions.

(b) Subject to the provisions of other Sections of these Rules, all final orders, decisions, and opinions issued by it in the discharge of its functions.

## Chapter 3

### Duties of the Executive Secretary

#### 3.1 Duties of the Executive Secretary.

It shall be the duty of the Executive Secretary:

(a) To act as the Board's secretary; to attend all of its meetings; and to keep minutes of its proceedings.

(b) To prepare and submit to the Board prior to each meeting an agenda containing reference to all pending matters and additional matters of interest to the Board.

(c) To prepare such reports as the Board may request regarding its work.

(d) To prepare and submit, upon request by the Board, a budget covering the estimated costs of administering the Board's program.

(e) To issue subpoenas and subpoenas duces tecum.

(f) To act between meetings of the Board on routine matters not requiring Board approval.

(g) To act as the chief administrative officer for the Board and to supervise the staff of employees engaged in the service of the Board.

(h) To conduct and supervise investigations on behalf of and at the request of the Board.

(i) To provide normal staff services in support of the Board's activities.

(j) To notify in writing the appropriate appointing authority of the pending expiration of the term of each Board member.

#### 3.2 Oaths and Affirmations.

The Executive Secretary shall have power to administer oaths in matters related to the business of the Board.

## Chapter 4

### Designated Duties of the General Counsel

4.1 The Board shall from time to time and as necessary request that the Attorney General designate an Assistant Attorney General to serve as General Counsel for the Board.

4.2 It shall be the duty of the General Counsel:

(a) To serve as chief legal counsel to the Board.

(b) To coordinate all legal needs and activities of the Board.

(c) To make recommendations regarding and in due course to supervise the activities of special counsel engaged from time to time by the Board.

(d) To represent the Board in all administrative and judicial proceedings.

(e) To participate as necessary in investigations, private hearings and public hearings.

## Chapter 5

### Complaints

5.1 Any qualified elector of Louisiana may file a written complaint with the Board. The complaint shall be signed under oath by the person filing it. Such person must be willing to appear before the Board in public hearings to testify in support of his complaint.

5.2 The term "any qualified elector of Louisiana" shall include any member of the Board who is so qualified.

5.3 The Executive Secretary shall cause the date of receipt to be noted on each complaint. The complaint shall be deemed filed upon the Board's initial consideration of same at a convened meeting. A docket shall be maintained upon which each complaint shall be given an appropriate title and docketed in the order filed.

5.4 The Executive Secretary shall promptly mail a copy of each

complaint to the party against whom it is filed within five days after it is filed with the Board. Such mailing to the party against whom the complaint is filed shall be by certified mail.

## **Chapter 6 Hearings**

6.1 The procedure governing private hearings shall be identical to the extent practicable to the procedure set forth below governing public hearings, and except that private hearings shall be closed to the public.

6.2 Public Hearings shall be initiated by order of the Board.

6.3 Assigning Public Hearings.

(a) The Board shall fix the time and place for the conduct of public hearings.

(b) For cause considered justifiable, the Board, Chairman, or its Executive Secretary, may upset any fixing and give the hearing a special assignment both as to time and to place with appropriate notification to all interested parties.

6.4 Place of Public Hearing.

(a) Subject to the provisions of Subsections (b) and (c) hereof, and except as otherwise specifically provided in §1141 C of the Code, all public hearings before the Board shall be conducted in a convenient place, accessible to the public, in the City of Baton Rouge, Louisiana.

(b) The Board may direct that a public hearing be conducted at a place of public accessibility within the State, other than the City of Baton Rouge, Louisiana.

(c) If the Executive Secretary, subject to the approval of the Board, deems that the interests of the State or of any agency thereof, or the location of witnesses, or the ends of justice so require, he may order that the public hearing be held in any other convenient place of public accessibility within the State other than the City of Baton Rouge, Louisiana.

6.5 Notice of Public Hearings.

(a) The Executive Secretary shall cause notice of public hearings to be posted and mailed to requesting parties at least five days prior thereto, except as otherwise specifically provided in §1141 D of the Code and in the case of emergencies.

(b) Notice to the public shall be posted in the lobby of the Contractors Licensing Board Building, 7434 Perkins Road, Baton Rouge, Louisiana, and on the bulletin board in the lobby of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

6.6 Continuance of Public Hearing.

(a) A public hearing fixed and not reached shall be refixed by the Board.

(b) The Board, its Chairman, or its Executive Secretary may, for cause deemed sufficient, grant or order, with respect to any one or more respondents involved, a continuance of any public hearing; and, in its discretion, it may proceed as to those respondents to whom no continuance was granted.

(c) With the approval of the Board, a hearing may be continued by consent of all interested parties.

(d) No continuance shall be granted except for compelling cause.

(e) A public hearing fixed and not reached shall be refixed by preference over all public hearings continued for any other reason and any public hearing subsequently docketed.

6.7 Procedure in Public Hearings of Complaints.

(a) Except in the case of private hearings, all hearings conducted under the provisions of this Chapter shall be open to the public.

(b) Parties and witnesses shall be subject to cross-examination as in trials before the District Courts of the State, and

the Board, each member of the Board, or its designated agent or attorney may examine and cross-examine any witnesses.

(c) The Board may require that the parties stipulate all undisputed facts.

(d) The Board may limit corroborative evidence.

(e) When a pending case involves substantially the same question of law or fact as presented in a prior public hearing, the Board, at the request of any party or on its or his own motion, may admit as evidence any part of the record of such previous public hearing as it or he may deem relevant; provided, that in the application of this Rule no party shall be deprived of the right to cross-examine any adverse witness.

(f) Evidence shall not be received to enlarge any charges lodged against any respondent.

(g) Twenty minutes shall be allowed each side for oral argument, provided however the time may be extended for good cause shown.

(h) Except with special leave of the Board, only one attorney shall be permitted to present oral argument for any party.

(i) The Board may in any case on its own motion invite or allow any member or members of the Louisiana State Bar Association to present oral or written argument on any question of law, provided such oral argument is presented at a hearing when all parties are present, or represented, or that a copy of all written arguments be served on all parties, or their counsel, if any. Service of such written argument shall be made by mail by the Executive Secretary within two working days of the receipt thereof by him.

(j) The charges filed against a respondent shall create no inference that the respondent is guilty of violation of the Code.

(k) The Board, on request of any party, or on its or his own motion, may order that the witnesses in any hearing be sequestered so as to preclude any witness, other than the parties and their attorneys, from hearing the testimony of any other witness.

(l) The Board may take notice of the provisions of the Code without the necessity of an offer in evidence.

(m) When, during the course of a hearing, a ruling by the Board is to be made, the presiding member may rule and his ruling shall constitute that of the Board; provided, that should an objection be made to such ruling, said ruling shall be determined by a majority vote of those members of the Board present.

6.8 Summary Disposition of Charges.

(a) At anytime after the assigning of charges for public hearing, any respondent may file with the Board a written request for summary disposition thereof on any of the following grounds:

1. That the Board lacks jurisdiction of the subject matter, or of the respondent.

2. That the charges have not been initiated in the manner prescribed by the Rules.

3. That the charges have become moot.

4. That the charges, if true, would not constitute a violation of the Code.

5. That the charges have prescribed.

(b) Any request for summary disposition, when made prior to the date fixed for the hearing, may be supported by sworn affidavits and shall be accompanied by written argument or brief.

(c) When a request for summary disposition has been filed with the Board in any proceeding, the attorney for the Board shall submit oral or written argument or brief in connection therewith.

(d) If the Board denies the request or refers it to the merits, it may reconsider same at any time prior to the conclusion of the public hearing.

(e) The Board may at any time, on its own motion, summarily dispose of charges on any of the grounds listed in Subsection (a) hereof.

(f) When the Board disposes summarily of a charge or

charges, its decision shall be final on the date it files its written decision with the Executive Secretary, disposing of the case. The Executive Secretary thereafter shall give the interested parties notice of the decision within two working days thereof.

#### 6.9 Subpoena of Witnesses: Production of Documents.

(a) The Board, each member thereof, the Executive Secretary, and any specially designated agent of the Board, shall have power to order the appearance of witnesses and to compel the production of books and papers pertinent to the issues involved in any public hearing, provided such witnesses and such books and papers are within the State.

(b) Any respondent desiring the issuance of a subpoena for any witness at a public hearing must apply for it in writing at least five days before the date fixed for the hearing and must give the name and address of the witness to whom the subpoena is to be directed.

(c) In lieu of the issuance and service of formal subpoenas to State employees, the Board or any person authorized by Subsection (a) of this Rule may request any agency to order any designated employee under its supervision to attend and testify at any public hearing; and upon being so ordered the employee shall appear and furnish testimony.

(d) Any respondent desiring the production of books, papers, photographs, or other items at any public hearing must apply for an appropriate order in writing at least five days before the date fixed for the hearing. Such application must describe the books or papers to be produced in sufficient detail for identification, must give the full name and address of the person required to make such production, and the materiality of their production to the issues must be certified to by the respondent or his counsel.

(e) Authenticated copies of books, papers, photographs, or other items in the custody of any agency of the State or any subdivision thereof which have been subpoenaed may be admitted in evidence with the same effect as the originals, but if original books, papers, photographs, or other items are subpoenaed they must be produced and made available for inspection even though authenticated copies may be subsequently introduced.

(f) The Board or its Chairman, may, for cause deemed sufficient by it or him, issue an appropriate order at any time recalling any subpoena, subpoena duces tecum, or request issued by it or him under the provisions of this Rule. The respondent may likewise obtain an order from the Board recalling any subpoena, subpoena duces tecum, or request issued or caused to be issued by him.

#### 6.10. Consolidation of Public Hearing.

When public hearings of two or more respondents involve similar or related circumstances, the Board may order a joint hearing of all respondents or may order separate hearings for specified respondents.

#### 6.11 Transcripts of Public Hearings.

The proceedings of all public hearings shall be recorded, but shall be transcribed only upon order of the Board or upon request made by a respondent therein, accompanied by proffer of such cost as may be determined by the Executive Secretary.

#### 6.12 Witness Fees in Public Hearings.

(a) The travel expenses of an officer or employee of a State agency who is required to appear before the Board shall be paid by the agency which employs him.

(b) The Board may order that any person who is not an officer or employee of a State department and who is subpoenaed to testify at a public hearing shall be entitled to the same mileage and fees as are allowed witnesses in civil cases by the Nineteenth Judicial Court for the Parish of East Baton Rouge.

(c) If a witness is subpoenaed by a respondent, the Board may order the same cost of witness fees and mileage to be paid by such respondent.

(d) The Board or the Executive Secretary may, before issuing a subpoena, require the party requesting the subpoena to deposit with the Executive Secretary a sum sufficient to cover the mileage costs and witness fees pending a determination of costs by the Board.

#### 6.13 Costs of Public Hearings

The Board may, in its discretion, order the costs of any public hearing, or any portion of such costs, including the costs of recording and transcribing testimony, to be paid by or charged to either the Board's funds or the respondent.

#### 6.14 Interlocutory Rulings.

(a) Formal exceptions to the interlocutory rulings or orders of the Board, are unnecessary. At the time the ruling is made or the order is communicated, a party shall make known his objection thereto and the grounds therefor, and same shall be noted in the record.

(b) The Board, may at any time prior to a final decision, recall, reverse, or revise any interlocutory ruling or order.

#### 6.15 Board Action Following Public Hearing.

(a) Following a public hearing, the Board shall either (1) dismiss the charges; (2) render its decision; or (3) take the matter under advisement. Thereafter, the Board shall either render written reasons for its dismissal or decision, or render a written decision in the event the hearing was taken under advisement.

(b) The decision of the Board shall be final on the tenth day following its filing with the Executive Secretary if there has been no timely application for rehearing in accordance with Rule 6.16 hereof.

(c) The Executive Secretary shall furnish all interested parties with a copy of the decision within two working days of its filing, by United States mail with sufficient postage affixed, properly addressed to each of them, or their attorneys of record, at the addresses shown by the record.

(d) Upon finding at a public hearing that any official or person has violated the provisions of the Code, the Board shall forward a copy of its findings to the District Attorney of the Parish in which the violation occurred, for appropriate action. Thereafter, notwithstanding any other provisions of the Code, such District Attorney shall have access to all Board records relative to the charges.

(e) The Board shall take action against any official or other person only at or following a public hearing.

#### 6.16 Rehearings

(a) Any aggrieved party may apply to the Board for a rehearing in writing within ten days from the date a decision is filed with the Executive Secretary. The grounds for an application for a rehearing shall be either that:

1. The decision or order is clearly contrary to the law and the evidence;

2. The party has discovered, since the hearing, evidence important to the issues which he could not have with due diligence obtained before or during the hearing;

3. There is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or

4. There is other good ground for further consideration of issues and the evidence in the public interest.

(b) The petition of an aggrieved party for a rehearing shall set forth the grounds which justify such action and shall be accompanied by a written brief or argument in support thereof.

(c) In the event the Board grants a rehearing, a time and place for the rehearing shall be fixed and the rehearing shall be confined to those grounds upon which the rehearing was ordered.

(d) If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.