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Executive Orders

EXECUTIVE ORDER MJF 03-1

Bond Allocation Industrial Development Board
of the City of Donaldsonville, Louisiana, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the City of Donaldsonville, Louisiana, Inc., has requested an allocation from the 2003 Ceiling to be used in connection with a program to provide financing for the acquisition, construction, and equipping of a food manufacturing facility to be located in the parish of Ascension, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the private activity bond volume limits for the calendar year of 2003 as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$2,150,000	Industrial Development Board of the City of Donaldsonville, Louisiana, Inc.	Chef John Folse and Company, Inc.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before April 28, 2003.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The

undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of January, 2003.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0302#002

EXECUTIVE ORDER MJF 03-2

Governor's DWI/Vehicular Homicide Task Force

WHEREAS, Executive Order No. MJF 96-9, issued on April 15, 1996, established the Governor's DWI/Vehicular Homicide Task Force (hereafter "Task Force");

WHEREAS, Executive Order Nos. MJF 97-8, issued on January 30, 1997; MJF 97-55, issued on December 3, 1997; MJF 98-2, issued on January 13, 1998; and MJF 98-17, issued on April 29, 1998, expanded the membership of the Task Force; and

WHEREAS, it is necessary to amend Executive Order No. MJF 96-9 to further expand the membership of the Task Force;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 2 of Executive Order No. MJF 96-9, issued on April 15, 1996, is amended as follows:

The Governor's DWI/Vehicular Homicide Task Force shall be composed of a maximum of nineteen (19) members who, unless otherwise specified, shall be appointed by the governor and serve at his pleasure. The membership of the Task Force shall be selected as follows:

1. the Governor, or the Governor's designee;
2. the Attorney General, or the Attorney General's designee;
3. the Speaker of the Louisiana House of Representatives, or the Speaker's designee;
4. the President of the Louisiana Senate, or the President's designee;

5. a member of the Louisiana House of Representatives appointed by the Speaker of the Louisiana House of Representatives;

6. a member of the Louisiana Senate appointed by the President of the Louisiana Senate;

7. the commissioner of the Office of Alcohol and Tobacco Control, assistant secretary of the Department of Revenue, or the commissioner's designee;

8. the assistant secretary of the Department of Public Safety, Office of Motor Vehicles, or the assistant secretary's designee;

9. the assistant secretary of the Department of Public Safety, Louisiana Highway Safety Commission, or the assistant secretary's designee;

10. the assistant secretary of the Department of Health and Hospitals, Office of Addictive Disorders, or the Assistant Secretary's Designee;

11. a representative of the Louisiana State Police;

12. a representative of the Louisiana State Police Crime Lab;

13. a representative of the Louisiana District Attorneys Association;

14. a representative of the Louisiana Sheriff's Association;

15. a representative of the Municipal Police Officers Association of Louisiana;

16. a representative of Mothers Against Drunk Driving;

17. a representative of the Louisiana Restaurant Association; and

18. two (2) at-large members.

SECTION 2: Executive Order Nos. MJF 97-8, issued on January 30, 1997; MJF 97-55, issued on December 3, 1997; MJF 98-2, issued on January 13, 1998; and MJF 98-17, issued on April 29, 1998, are hereby rescinded and terminated.

SECTION 3: All other sections and subsections of Executive Order No. MJF 96B9 shall remain in full force and effect.

SECTION 4: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of January, 2003.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0302#003

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agro-Consumer Services

Chloramphenicol in Shrimp and Crawfish Testing, Sale, and Labeling (LAC 7:XXXV.137 and 139)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of shrimp and crawfish in Louisiana and the labeling of foreign shrimp and crawfish. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The Louisiana Legislature, by SCR 13 of the 2002 Regular Session, has urged and requested that the Commissioner of Agriculture and Forestry require all shrimp and crawfish, prior to sale in Louisiana, meet standards relating to Chloramphenicol that are consistent with those standards promulgated by the United States Food and Drug Administration, (FDA). The Legislature has also urged and requested the Commissioner to promulgate rules and regulations necessary to implement the standards relating to Chloramphenicol in shrimp and crawfish that are consistent with those standards promulgated by the FDA, and which rules and regulations require all shrimp and crawfish sold in Louisiana to meet the standards adopted by the Commissioner, prior to sale.

Chloramphenicol is an antibiotic the FDA has restricted for use in humans only in those cases where other antibiotics or medicines have not been successful. The FDA has banned the use of Chloramphenicol in animals raised for food production. See, 21 CFR 522.390(3). The FDA has set a zero tolerance level for Chloramphenicol in food.

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, European Union inspectors found chloramphenicol residues in shrimp and crawfish harvested from and produced in China. The inspectors also found "serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field," which may contribute to Chloramphenicol residues in Chinese shrimp and crawfish. The Chinese are known to use antibiotics, such as Chloramphenicol, in farm-raised shrimp. They are also known to process crawfish and shrimp harvested in the wild in the same plants used to process farm-raised shrimp.

The European Union, in January of this year, banned the import of shrimp and crawfish from China because Chloramphenicol has been found in shrimp and crawfish imported from China. Canada has, this year, banned the import of shrimp and crawfish that contain levels of chloramphenicol above the level established by Canada. Between 1999 and 2000 imports of Chinese Shrimp to the United States doubled, from 19,502,000 pounds to 40,130,000 pounds. With the recent bans imposed by the European Union and Canada there is an imminent danger that the shrimp and crawfish that China would normally export to the European Union and Canada will be dumped and sold in the United States, including Louisiana.

The sale of such shrimp and crawfish in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of shrimp and crawfish containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare.

This peril can cause consumers to quit buying shrimp and crawfish from any source, including Louisiana shrimp and crawfish. If consumers cease to buy, or substantially reduce, their purchases of Louisiana shrimp and seafood, Louisiana aquaculture and fisheries will be faced with substantial economic losses. Any economic losses suffered by Louisiana's aquaculture and fisheries will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

Consumers of shrimp and crawfish cannot make an informed decision as to what shrimp or crawfish to purchase and the Commissioner cannot adequately enforce the regulations regarding the sampling and testing of shrimp and crawfish unless shrimp and crawfish produced in foreign countries are properly labeled as to the country of origin.

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary to immediately implement testing of shrimp and crawfish for Chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with Chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. These rules become effective upon signature, January 17, 2003, and will remain in effect 120 days, unless renewed by the Commissioner or until permanent rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§137. Chloramphenicol in Shrimp and Crawfish Prohibited; Testing and Sale of

A. Definitions

Food Producing Animals Both animals that are produced or used for food and animals, such as dairy cows, that produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Packaged Shrimp or Crawfish Any shrimp or crawfish, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Shrimp or Crawfish Any such animals, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana if such shrimp or crawfish contain Chloramphenicol.

C. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana without being accompanied by the following records and information, written in English.

1. The records and information required are:
 - a. the quantity and species of shrimp and crawfish acquired or sold;
 - b. the date the shrimp or crawfish was acquired or sold;
 - c. the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;
 - d. the geographic area where the shrimp or crawfish was harvested;
 - e. the geographic area where the shrimp or crawfish was produced processed or packed;
 - f. the trade or brand name under which the shrimp or crawfish is held, offered or exposed for sale or sold; and
 - g. the size of the packaging of the packaged shrimp or crawfish.

2. Any person maintaining records and information as required to be kept by the Louisiana Department of Wildlife and Fisheries in accordance with R.S. 56:306.5, may submit a copy of those records, along with any additional information requested herein, with the shrimp or crawfish.

3. Any shrimp or crawfish not accompanied by all of this information shall be subject to the issuance of a stop-sale, hold or removal order until the shrimp or crawfish is tested for and shown to be clear of Chloramphenicol, or the Commissioner determines that the shrimp or crawfish does not come from a geographic area where Chloramphenicol is being used on or found in food producing animals, or in products from such animals.

D. No shrimp or crawfish that is harvested from or produced, processed or packed in a geographic area, that the Commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

E. The Commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The Commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

F. Shrimp or crawfish, that comes from a geographic area declared by the Commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana:

1. Sampling

a. The numbers of samples that shall be taken are as follows.

i. Two samples are to be taken of shrimp or crawfish that are in lots of fifty pounds or less.

ii. Four samples are to be taken of shrimp or crawfish that are in lots of fifty-one to one hundred pounds.

iii. Twelve samples are to be taken of shrimp or crawfish that are in lots of one hundred and one pounds up to fifty tons.

iv. Twelve samples for each fifty tons are to be taken of shrimp or crawfish that are in lots of over fifty tons.

b. For packaged shrimp or crawfish, each sample shall be at least eight ounces, (226.79 grams), in size and shall be taken at random throughout each lot of shrimp or crawfish. For all other shrimp or crawfish, obtain approximately one pound, (454 grams), of shrimp or crawfish per sample from randomly selected areas.

c. If the shrimp or crawfish to be sampled consists of packages of shrimp or crawfish grouped together, but labeled under two or more trade or brand names, then the shrimp or crawfish packaged under each trade or brand name shall be sampled separately. If the shrimp or crawfish to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of shrimp or crawfish. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;
- d. the name and address of the importing company;
- e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of shrimp or crawfish up to and including one pound, use the entire sample. Shell the shrimp or crawfish, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The Commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the Commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the Commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals. The Commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the Department prior to the shrimp or crawfish being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the shrimp or crawfish.

8. Upon actual receipt by the Department of a copy of the certified test results and written documentation required to accompany the certified test results then the shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the Commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such shrimp or crawfish sent to each location in Louisiana or shall be immediately accessible to the Department, upon request, from any such location.

G Any person who is seeking to bring shrimp or crawfish that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such shrimp or crawfish in Louisiana shall be responsible for having such shrimp or crawfish sampled and tested in accordance with Subsection F. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

H. The Commissioner may reject the test results for any shrimp or crawfish if the Commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

I. In the event that any certified test results are rejected by the Commissioner then any person shipping or holding the shrimp or crawfish will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the Commissioner. Thereafter, it will be the duty of any such person to abide by such order until the Commissioner lifts the order in writing. Any such person may have the shrimp or crawfish retested in accordance with this Section and apply for a lifting of the Commissioner's order upon a showing that the provisions of this Section have been complied with and that the shrimp or crawfish are certified as being free of Chloramphenicol.

J. The Department may inspect, and take samples for testing, any shrimp or crawfish, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

K. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any shrimp or crawfish that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the Commissioner.

L. The Department may take physical possession and control of any shrimp or crawfish that violate the requirements of this Section if the Commissioner finds that the shrimp or crawfish presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

M. The Commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

a. the country of the People's Republic of China.

2. All shrimp and crawfish harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

N. The records and information required under this Section shall be maintained for two years and shall be open to inspection by the Department.

O. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

P. The effective date of this Section is May 24, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, & 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture & Forestry, Office of the Commissioner, LR 29:

§139. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions

Foreign Shrimp or Crawfish Any shrimp or crawfish, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

Shrimp or Crawfish Any shrimp or crawfish, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. All foreign shrimp or crawfish, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign shrimp or crawfish, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the shrimp or crawfish the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such shrimp or crawfish are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign shrimp or crawfish are combined with domestic shrimp or crawfish, or products made from or containing domestic shrimp or crawfish, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign shrimp or crawfish.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign shrimp or crawfish, or any sign advertising such foreign shrimp or crawfish for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the shrimp or crawfish, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the shrimp or crawfish is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates

the shrimp or crawfish is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign shrimp or crawfish shall not have to be marked or labeled with the country of origin if such shrimp or crawfish are included as components in a product manufactured in the United States and the shrimp or crawfish is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, de-heading, de-veining, peeling, partially cooking or combining with domestic shrimp or crawfish shall not be considered to be a substantial transformation.

G. The Commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of shrimp or crawfish mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, & 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture & Forestry, Office of the Commissioner, LR 29:

Bob Odom
Commissioner

0301#001

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of the Secretary

Fee Increases for FY 02-03
(LAC 33:I.1409, 4707; III.223; V.5111, 5119,
5120, 5123, 5125, 5135, 5137, 5139, 5141,
5143, 5145; VII.525, 527, 529; IX.1309,
1507; XI.307 1305; and XV.579)(OS041E2)

In accordance with the emergency provision of the Administrative Procedure Act, R.S. 49:953.B, and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary in order to collect additional fees so no services provided by the department will be diminished.

Act 134 of the First Extraordinary Session of the 2002 Legislative Session authorized a 20 percent increase in fee collections by the department. In order to invoice these authorized fee increases during the current fiscal year, this Emergency Rule is being implemented. The department has proposed a Rule (OS041) that reflects the provisions of this Emergency Rule. The earliest date that OS041 can be promulgated is March 20, 2003.

This is a renewal of Emergency 00S041E that was effective on July 1, 2002 and renewed on October 29, 2002.

This Emergency Rule is effective on February 26, 2003, and shall remain in effect for a maximum of 120 days or until the final Rule OS041 is promulgated, whichever occurs first. For more information concerning OS041E2, you may contact the Regulation Development Section at (225) 765-0399.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures
Chapter 14. Groundwater Fees

§1409. Groundwater Protection Fees

A. Assessment Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or reports that assess groundwater contamination and draw conclusions as to the need for further assessment and/or corrective action.

Hazardous Waste Facilities	\$9,450
Solid Waste Facilities	\$6,300
Nonregulated Facilities	\$3,150

B. Corrective Action Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or actions to clean up groundwater that has been contaminated by a facility.

Hazardous Waste Facilities	\$12,600
Solid Waste Facilities	\$9,450
Nonregulated Facilities	\$3,150

C. Annual Report Review Fee. The fee listed below covers the cost of reviewing the groundwater annual report required by both the Hazardous and Solid Waste regulations.

Hazardous Waste Facilities	\$1,260
Solid Waste Facilities	\$314

D. Groundwater Monitoring Systems Installation. The fee listed below covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications.

Each well	\$600
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E. Groundwater Monitoring Systems Surveillance Fee (Annual). The fee listed below covers the cost of inspecting monitoring systems to ensure that they are functioning properly and continue to maintain their integrity. The cost also includes other activities, such as the analysis of boring logs and site geology (cross sections, isopachs, etc.). The maximum fee that can be charged for this category is \$6,000.

Each well	\$300
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F. Facility Inspection Fee (Annual). The fee listed below covers the cost of inspecting the various facilities to ensure compliance with the groundwater protection aspects of the facilities' permits.

Hazardous Waste Facilities	\$1,200
With sampling	\$9,000
Solid Waste Facilities	\$600
With sampling	\$1,800

G. Oversight of Abandonment Procedures. The fee listed below covers the cost of reviewing plans to plug and abandon all nonpermitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Casing pulled	\$120 each well
Casing reamed out	\$240 each well
Casing left in place	\$600 each well

H. Maximum Total Fee Per Facility. The maximum fee that can be assessed a facility under these regulations is \$37,800, effective July 1, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:729 (July 1992), amended LR 21:797 (August 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

Subpart 3. Laboratory Accreditation
Chapter 47. Program Requirements
§4707. Fees

A. - C. ...

D. The following basic fee structure will be used in determining the initial or annual fees due to the department.

Accreditation application fee payable every three years	\$600
Per major test category payable every year	\$300
Minor conventional category payable every year	\$240
Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$300
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:

Chapter 2. Part III. Air Rules and Regulations for the Fee System of the Air Quality Control Programs

§223. Fee Schedule Listing

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0010	Reserved					
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	48.00	240.00	144.00	48.00
0020	Bituminous Coal and Lignite Mining	1211	688.00	3437.00	2064.00	688.00
0030	Coal Preparation	1211	1720.00	8596.00	5158.00	1720.00
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	82.00	408.00	245.00	82.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	137.00	688.00	413.00	137.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	425.00	2123.00	1273.00	425.00
0043	Crude Oil & Natural Gas Production Greater than 500 T/Yr Source	1311	707.00	2830.00	2123.00	707.00
0050	Natural Gas Liquids Per Unit	1321	345.00	1720.00	1031.00	344.00
0060	Construction Sand and Gravel	1442	137.00	688.00	413.00	137.00
0070	Industrial Sand	1446	137.00	688.00	413.00	137.00
0080	Salt Mining	1476	1720.00	8596.00	5158.00	1720.00
0090	Sulfur Mining	1477	1720.00	8596.00	5158.00	1720.00
0100	Commercial Rice Milling	2044	688.00	3437.00	2064.00	688.00
0110	Animal Feed Preparation	2048	688.00	3437.00	2064.00	688.00
0120	Cane Sugar, Except Refining Only	2061	1720.00	8596.00	5158.00	1720.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062 MIN.	13.74 1697.00	68.77 8491.00	41.26 5094.00	13.74 1697.00
0140	Cottonseed Oil Mill	2074	344.00	1720.00	1031.00	344.00
0150	Soybean Oil Mill	2075	241.00	1204.00	722.00	241.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	823.00	4126.00	2474.00	823.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	413.00	2064.00	1238.00	413.00
0180	Shortening, Table Oils, Margarine and Other Edible Fats and Oils	2079	170.00	860.00	515.00	170.00
0190	Malt Beverages	2082	170.00	860.00	515.00	170.00
0200	Coffee Roasting Per 1,000,000 Lb/Yr Rated Capacity	2095 MIN. MAX.	136.80 326.00 8632.00	687.60 1632.00 43164.00	411.60 979.00 25898.00	136.80 326.00 8632.00
0210 *Note 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	345.00	1720.00	1031.00	344.00
0220 *Note 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	1031.00	5158.00	3095.00	1031.00
0230 *Note 9*	Hardwood Mill	2426	618.00	3095.00	1856.00	618.00
0240 *Note 9*	Special Product Sawmill N.E.C.	2429	618.00	3095.00	1856.00	618.00
0250	Millwork with 10 Employees or More	2431	618.00	3095.00	1856.00	618.00
0260	Hardwood Veneer and Plywood	2435	1375.00	6876.00	4126.00	1375.00
0270	Soft wood Veneer and Plywood	2436	1375.00	6876.00	4126.00	1375.00
0280	Wood Preserving	2491	345.00	1720.00	1031.00	344.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	1375.00	6876.00	4126.00	1375.00
0300	Hardboard Manufacture	2499	1031.00	5158.00	3095.00	1031.00
0310	Furniture and Fixtures - A) 100 or More Employees	2511	435.00	2177.00	1306.00	434.00
0320	Furniture and Fixtures - B) More than 10 and Less than 100 Employees	2511	206.00	1031.00	618.00	206.00
0330	Pulp Mills Per Ton Daily Rated Capacity	2611 MIN.	5.14 3538.00	25.78 17690.00	15.48 10614.00	5.14 3538.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0340 *Note 1*	Paper Mill Per Ton Daily Rated Capacity	2621 MIN.	5.14 3538.00	25.78 17690.00	15.48 10614.00	5.14 3538.00
0350	Paperboard Mills Per Ton Daily Rated Capacity	2631 MIN.	5.14 3538.00	25.78 17690.00	15.48 10614.00	5.14 3538.00
0360	Paper Coating	2641	206.00	1031.00	618.00	206.00
0365	Paper Bag Manufacture	2643	262.00	1306.00	784.00	262.00
0370	Insulation Manufacture	2649	345.00	1720.00	1031.00	344.00
0375	Folding Paper Board Boxes Per Packaging Press Line	2651 MIN.	345.00 1697.00	1720.00 8491.00	1031.00 5094.00	344.00 1697.00
0380	Corrugated Boxes - Converters (with Boilers)	2653	515.00	2578.00	1548.00	515.00
0381	Corrugated Boxes - Sheet Plant	2653	217.00	1088.00	653.00	217.00
0390	Building Board and Tile	2661	1720.00	8596.00	5158.00	1720.00
0400	Commercial Printing - Black and White Per Press	2752 MIN.	205.00 990.00	1031.00 4952.00	618.00 2971.00	205.00 990.00
0410	Commercial Printing - Color Per Press	2752 MIN.	343.00 1697.00	1718.00 8491.00	1032.00 5094.00	343.00 1697.00
0420 *Note 2*	Caustic/Chlorine Per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812 MIN.	3.44 1697.00	17.20 8491.00	10.31 5094.00	3.44 1697.00
0440	Industrial Gases	2813	688.00	3437.00	2064.00	688.00
0450	Inorganic Pigments	2816	688.00	3437.00	2064.00	688.00
0460	Aluminum Sulfate Production Per 100 Ton/Yr Rated Capacity	2819 MIN.	1.70 1415.00	8.60 7075.00	5.14 4246.00	1.70 1415.00
0470	Alumina Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	6.85 1415.00	34.37 7075.00	20.62 4246.00	6.85 1415.00
0480	Catalyst Mfg. and Cat. Regeneration Per Line	2819	1720.00	8596.00	5158.00	1720.00
0490	Fluosilicates	2819	1031.00	5158.00	3095.00	1031.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. Per 1,000,000 Lb/Yr	2819 MIN.	1.70 990.00	8.60 4952.00	5.14 2971.00	1.70 990.00
0510	Industrial Inorganic Acids N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	17.20 1697.00	85.96 8491.00	51.58 5094.00	17.20 1697.00
0520	Nitric Acid Manufacture Per 1,000 Ton/Yr Rated Capacity	2819 MIN.	6.85 1697.00	34.37 8491.00	20.62 5094.00	6.85 1697.00
0530	Phosphoric Acid Mfg. Per Ton Daily Rated Cap	2819 MIN.	1.70 1415.00	8.60 7075.00	5.14 4246.00	1.70 1415.00
0540	Sulphuric Acid Manufacture Per Ton Daily Rated Capacity	2819 MIN.	1.70 1415.00	8.60 7075.00	5.14 4246.00	1.70 1415.00
0550	Polyethylene/Polypropolene Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	13.74 1697.00	68.77 8491.00	41.26 5094.00	13.74 1697.00
0560	PVC Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	17.20 1697.00	85.96 8491.00	51.58 5094.00	17.20 1697.00
0570	Synthetic Resins Manufacture N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	17.20 1697.00	85.96 8491.00	51.58 5094.00	17.20 1697.00
0580	Rubber Mfg. Per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	17.20 1697.00	85.96 8491.00	51.58 5094.00	17.20 1697.00
0585	Paint Manufacturing and Blending	2851	640.00	3198.00	1919.00	640.00
0590	Charcoal Per Oven	2861	344.00	1720.00	1031.00	344.00
0600	Gum and Wood Chemicals Per Unit	2861	1031.00	5158.00	3095.00	1031.00
0610	Styrene Monomer Per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	6.85 1697.00	34.37 8491.00	20.62 5094.00	6.85 1697.00
0620	Halogenated Hydrocarbons Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	10.31 1697.00	51.58 8491.00	30.95 5094.00	10.31 1697.00
0630	Organic Oxides, Alcohols, Glycols Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	6.85 1697.00	34.37 8491.00	20.62 5094.00	6.85 1697.00
0635	Olefins and Aromatics N.E.C. Per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	6.85 1697.00	34.37 8491.00	20.62 5094.00	6.85 1697.00
0640	Ammonia Manufacture Per Ton Daily Rated Capacity	2873 MIN.	3.43 1697.00	17.20 8491.00	10.31 5094.00	3.43 1697.00
0650	Fertilizer Manufacture Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	1.70 990.00	8.60 4952.00	5.14 2971.00	1.70 990.00
0660	Urea and Ureaform Per 1,000 Ton/Yr Rated Capacity	2873 MIN.	3.43 990.00	17.20 4952.00	10.31 2971.00	3.43 990.00
0670	Pesticides Mfg. Per Train	2879	1375.00	6876.00	4126.00	1375.00
0680	Carbon Black Manufacture Per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	20.62 1697.00	103.13 8491.00	61.90 5094.00	20.62 1697.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0690	Chemical and Chemical Prep. N.E.C. Per 1,000,000 Lb/Yr	2899 MIN.	17.20 1415.00	85.96 7075.00	51.58 4246.00	17.20 1415.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	979.00	4898.00	2939.00	979.00
0700	Drilling Mud-Storage and Distribution	2899	344.00	1720.00	1031.00	344.00
0710	Drilling Mud-Grinding	2899	1375.00	6876.00	4126.00	1375.00
0715	Salt Processing and Packaging Per 1,000,000 Lb/Yr	2899 MIN.	00.28 425.00	1.40 2123.00	0.84 1273.00	0.28 425.00
0720 *Note 3*	Petroleum Refining Per 1,000 BBL/Day Rated Capacity Crude Thruput	2911 MIN.	85.96 1697.00	429.79 8491.00	258.00 5094.00	85.96 1697.00
0730 *Note 4*	Asphaltic Concrete Paving Plants Per Ton/Hr Rated Capacity	2951 MIN.	2.59 707.00	12.92 3538.00	7.75 2123.00	2.59 707.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	1031.00	5158.00	3095.00	1031.00
0760 *Note 5*	Blending, Compounding, or Refining of Lubricants Per Unit	2992	1031.00	5158.00	3095.00	1031.00
0770	Petroleum Coke Calcining Per 1,000 Ton/Yr Rated Capacity	2999 MIN.	13.74 1697.00	68.77 8491.00	41.26 5094.00	13.74 1697.00
0773	Fiberglass Swimming Pools	N/A	242.00	1204.00	722.00	241.00
0775	Plastics Injection Moulding and Extrusion Per Line	3079	344.00	1720.00	1031.00	344.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel Per Line	3229	515.00	2578.00	1548.00	515.00
0790	Cement Manufacture Per 1,000 Ton/Yr Rated Capacity	3241 MIN.	10.31 1415.00	51.58 7075.00	30.95 4246.00	10.31 1415.00
0800	Glass and Glass Container Mfg. Fuel Oil Per Line	3241	1031.00	5158.00	3095.00	1031.00
0810	Brick Manufacture Per 1,000 Ton/Yr Rated Capacity	3251 MIN.	5.14 707.00	25.78 3538.00	15.48 2123.00	5.14 707.00
0815	Concrete Products	3272	348.00	1741.00	1044.00	348.00
0820 *Note 12*	Ready-Mix Concrete	3273	860.00	2612.00	1720.00	860.00
0830	Lime Manufacture Per 1,000 Ton/Yr Rated Capacity	3274 MIN.	10.31 990.00	51.58 4952.00	30.95 2971.00	10.31 990.00
0840	Gypsum Manufacture Per 1,000 Ton/Yr Rated Capacity	3275 MIN.	10.31 990.00	51.58 4952.00	30.95 2971.00	10.31 990.00
0850	Asbestos Products Per Site or Per Production Unit	3292	2064.00	10315.00	6190.00	2064.00
0860	Clay Kiln	3295	413.00	2064.00	1238.00	413.00
0870	Rock Crusher	3295	378.00	1891.00	1135.00	378.00
0880	Gray Iron and Steel Foundries A) 3,500 or More Ton/Yr Production	3321	551.00	2749.00	1650.00	551.00
0890	Gray Iron and Steel Foundries B) Less than 3,500 Ton/Yr Production	3321	274.00	1375.00	824.00	274.00
0900	Malleable Iron Foundries A) 3,500 or More Ton/Yr Production	3322	551.00	2749.00	1650.00	551.00
0910	Malleable Iron Foundries B) Less than 3,500 Ton/Yr Production	3322	274.00	1375.00	823.00	274.00
0920	Steel Investment Foundries A) 3,500 or More Ton/Yr Production	3324	551.00	2749.00	1650.00	551.00
0930	Steel Investment Foundries B) Less than 3,500 Ton/Yr Production	3324	274.00	1375.00	823.00	274.00
0940	Steel Foundries Not Elsewhere Classified A) 3,500 or More Ton/Yr Production	3325	551.00	2749.00	1650.00	551.00
0950	Steel Foundries Not Elsewhere Classified B) Less than 3,500 Ton/Yr Production	3325	274.00	1375.00	823.00	274.00
0960	Primary Smelting and Refining of Copper Per 100,000 Lb/Yr Rated Capacity	3331 MIN.	6.85 1697.00	34.37 8491.00	20.62 5094.00	6.85 1697.00
0970	Aluminum Production Per Pot	3334 MIN.	34.37 1697.00	171.92 8491.00	103.00 5094.00	34.37 1697.00
0980	Refining of Non-Ferrous Metals N.E.C. Per 1,000 Lb/Yr Rated Capacity	3339 MIN.	0.04 1697.00	0.32 8491.00	0.19 5094.00	0.04 1697.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
0990	Secondary Smelting of Non-Ferrous Metals Per Furnace	3341 MIN.	1031.00 2123.00	5158.00 10614.00	3095.00 6368.00	1031.00 2123.00
1000	Wire Manufacture	3357	688.00	3437.00	2064.00	688.00
1010	Aluminum Foundries (Castings) Per Unit	3361	274.00	1375.00	823.00	274.00
1020	Brass/Bronze/Copper-Based Alloy Foundry Per Furnace	3362	344.00	1720.00	1031.00	344.00
1030	Metal Heat Treating Including Shotpeening	3398	206.00	1031.00	618.00	206.00
1040	Metal Can Manufact ure	3411	688.00	3437.00	2064.00	688.00
1050	Drum Manufacturing and/or Reconditioning	3412	1031.00	5158.00	3095.00	1031.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	688.00	3437.00	2064.00	688.00
1060	Fabricated Plate Work with 5 or More Welders	3443	870.00	4354.00	2612.00	870.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	206.00	1031.00	618.00	207.00
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	1031.00	5158.00	3095.00	1031.00
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	515.00	2578.00	1548.00	515.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	378.00	1891.00	1135.00	378.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	206.00	1031.00	618.00	206.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	413.00	2064.00	1238.00	413.00
1130	Painting Topcoat Per Line	3479	344.00	1720.00	1031.00	344.00
1140	Potting Per Line	3479	206.00	1031.00	618.00	206.00
1150	Soldering Per Line	3479	206.00	1031.00	618.00	206.00
1160	Wire Coating Per Line	3479	688.00	3437.00	2064.00	688.00
1170	Oil Field Machinery and Equipment	3533	344.00	1720.00	1031.00	344.00
1180	Power Chain Saw Manufacture Per Line	3546	515.00	2578.00	1548.00	515.00
1190	Commercial Grain Dryer	3559	413.00	2064.00	1238.00	413.00
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	515.00	2578.00	1548.00	515.00
1195	Electric Transformers Per 1,000 Units/Year	3612 MIN.	159.92 434.00	799.60 2177.00	479.76 1306.00	159.92 434.00
1200	Electrode Manufacture Per Line	3624	481.00	2405.00	1444.00	481.00
1210	Telephone Manufacture Per Line	3661	1204.00	6017.00	3610.00	1204.00
1220	Electrical Connector Manufacture Per Line	3678	618.00	3095.00	1856.00	618.00
1230	Battery Manufacture Per Line	3691	688.00	3437.00	2064.00	688.00
1240	Electrical Equipment Per Line	3694	413.00	2064.00	1238.00	413.00
1245	Automobile, Truck and Van Assembly Per 1,000 Vehicles Per Year Capacity	3711 MIN. MAX.	171.92 1088.00 34390.00	859.55 5443.00 171950.00	515.72 3265.00 103170.00	171.92 1088.00 34390.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	5158.00	25787.00	15473.00	5158.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	3437.00	17192.00	10315.00	3437.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	1720.00	8596.00	5158.00	1720.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	1031.00	5158.00	3095.00	1031.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	344.00	1720.00	1031.00	345.00
1300	Playground Equipment Manufacture Per Line	3949	515.00	2578.00	1548.00	515.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	1098.00	5500.00	3300.00	1098.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	551.00	2749.00	1650.00	551.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1330 *Note 6*	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	10315.00	51575.00	30946.00	10315.00
1340 *Note 6*	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000-3,000,000 BBL Capacity)	4226	6876.00	34382.00	20629.00	6876.00
1350 *Note 6*	C) Petroleum, Chemical Bulk Storage and Terminal (500,001 - 1,000,000 BBL Capacity)	4226	3437.00	17192.00	10315.00	3437.00
1360 *Note 6*	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	1720.00	8596.00	5158.00	1720.00
1361 *Note 8*	Wholesale Distribution of Coke and Other Bulk Goods Per 1,000 Ton/Yr Capacity	4463 MIN.	0.70 1696.00	3.44 8491.00	2.04 5094.00	0.70 1697.00
1362	Crude Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4612	762.00	3810.00	2286.00	762.00
1363	Crude Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4612	1088.00	5443.00	3265.00	1088.00
1364	Crude Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4612	1524.00	7620.00	4572.00	1524.00
1366	Refined Oil Pipeline - Facility with Less than 100,000 BBLs Storage Capacity	4613	653.00	3265.00	1958.00	653.00
1367	Refined Oil Pipeline - Facility with 100,000 to 500,000 BBLs Storage Capacity	4613	870.00	4354.00	2612.00	870.00
1368	Refined Oil Pipeline - Facility with Over 500,000 BBLs Storage Capacity	4613	1306.00	6532.00	3918.00	1306.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	344.00	1720.00	1031.00	344.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	1720.00	8596.00	5158.00	1720.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	1031.00	5158.00	3095.00	1031.00
1400	A) Electric Power Gen. Per MW (Over 0.7 percent S in Fuel)	4911 MIN.	15.97 3254.00	79.94 16274.00	47.96 9764.00	15.97 3254.00
1410 *Note 7*	B) Electric Power Gen. Per MW (0.7 percent S or Less in Fuel)	4911 MIN.	9.58 1556.00	47.96 7783.00	28.78 4670.00	9.58 1556.00
1420	C) Electric Power Gen. Per MW (Natural Gas Fired)	4911 MIN.	4.81 1132.00	23.99 5660.00	14.39 3396.00	4.81 1132.00
1430 *Note 11*	Natural Gas Comp Per 100 H.P. (Turbines)	4922	6.85	34.37	20.62	6.85
1440 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: A) 50,000 H.P.	4922	30.96	154.74	92.83	30.96
1450 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	34.37	171.92	103.13	34.37
1460 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	41.26	206.29	123.74	41.26
1470 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	48.14	240.65	144.40	48.14
1480 *Note 11*	Recip. Nat Gas Comp Per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	51.58	257.87	154.74	51.58
1490 *Note 11*	Recip. Nat Gas Comp: F) less than 1,000 H.P.	4922	688.00	1720.00	688.00	688.00
1500 *Note 10*	Coal Gassification Per \$100,000 Capital Cost	4925 MIN. MAX.	6.85 1088.00 55052.00	34.37 5443.00 275262.00	20.62 3265.00 165156.00	6.85 1088.00 55052.00
1510 *Note 10*	Co-Generation Per \$100,000 Capital Cost	4939 MIN. MAX.	6.85 1088.00 34390.00	34.37 5443.00 171950.00	20.62 3265.00 103170.00	6.85 1088.00 34390.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	434.00	2177.00	1306.00	434.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	140.00	707.00	425.00	140.00

Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN.	120.00 240.00	600.00 1200.00	360.00 720.00	120.00 240.00
1530	Municipal Incinerators	4953	3437.00	17192.00	10316.00	3437.00
1532	Commercial Hazardous Waste Incinerator Per 1,000,000 BTU Per Hour Thermal Capacity	4953 MIN.	198.13 4354.00	990.66 21773.00	594.40 13063.00	198.13 4354.00
1533	Non Commercial Hazardous Waste Incinerator (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN.	99.06 2830.00	496.01 14152.00	297.19 8491.00	99.06 2830.00
1534	Commercial Hazardous Waste Disp. Facility N.E.C.	4953	28304.00	141523.00	84913.00	28304.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) Per Location	4953	5660.00	28304.00	16982.00	5660.00
1536	Recoverable/Re-usable Materials Proc. Facility (Per 1,000,000 BTU/Hr Thermal Capacity)	4953 MIN. MAX.	99.06 2830.00 14152.00	495.32 14152.00 70762.00	297.19 8491.00 42456.00	99.06 2830.00 14152.00
1540	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Natural Gas or Comb Non-Fossil Fuels	4961 MIN.	1.70 282.00	8.60 1415.00	5.14 848.00	1.70 282.00
1550	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with 0.7 percent S or Less	4961 MIN.	3.44 707.00	17.20 3538.00	10.31 2123.00	3.44 707.00
1560	Steam Gen. Units Per 1000 Lbs/Hr Steam Cap-Fuels with More than 0.7 percent S	4961 MIN.	5.14 990.00	25.78 4952.00	15.48 2971.00	5.14 990.00
1570	Cement (Bulk Distribution)	5052	1375.00	6876.00	4126.00	1375.00
1580	Wholesale Distribution of Coal Per 1,000 Ton/Yr Throughput	5052 MIN.	0.32 990.00	1.70 4952.00	1.01 2971.00	0.32 990.00
1590	Automobile Recycling Scrap Per 1000 Ton/Yr	5093 MIN. MAX.	14.15 707.00 34390.00	70.75 3538.00 171950.00	42.46 2123.00 103170.00	14.15 707.00 34390.00
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	3437.00	17192.00	10315.00	3437.00
1610 *Note 14a*	Bulk Loader: Less than or equal to 100,000 and more than 25,000 Ton/Yr Throughput	5153	1720.00	8596.00	5158.00	1720.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	979.00	4898.00	2939.00	979.00
1612 *Note 14a*	Bulk Loader - No Grain or Dusty Materials Transfer	5153	653.00	3265.00	1958.00	653.00
1620	Grain Elevators-Terminal Per 10,000 Bu/Yr Throughput	5153 MIN.	0.32 1556.00	1.70 7783.00	1.01 4670.00	0.32 1556.00
1630	Wholesale Distribution of Chemicals and Allied Products Per Facility	5161	860.00	3437.00	2578.00	860.00
1640	Petroleum Bulk Plants	5171	70.00	344.00	206.00	70.00
1650	Petroleum Bulk Terminal	5171	688.00	3437.00	2064.00	688.00
1660	Petroleum Bulk Station	5171	70.00	344.00	206.00	70.0
1670	Storage Tank	5171	0.00	688.00	344.00	344.00
1680	Crude Oil Distribution	5172	1031.00	5158.00	3095.00	1031.00
1690	Tire Recapping Plant	7534	140.00	707.00	425.00	140.00
1700	Chemical Waste Disposal Facility for Non Hazardous Waste	9998	3198.00	15992.00	9595.00	3198.00
1710	Negotiated Fee	9999	0.00	0.00	0.00	0.00
1711	Research Fee for Alternate Disposal of Hazardous Waste	9999	0.00	0.00	0.00	0.00
1720 *Note 15*	Small Business Sources	N/A	130.00	648.00	389.00	130.00
1722	Small Source Permit	N/A	130.00	648.00	389.00	130.00

Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change Transfer of an Existing Permit	136.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	271.00
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	130.00
2020	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (at least 10 working days notification given)	60.00
2030	The Issuance of an Asbestos Demolition Verification Form (ADVF) - (less than 10 working days notification given)	90.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	240.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	360.00
2060	Worker Accreditation for Asbestos-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	60.00
2070	Worker Accreditation for Asbestos-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	90.00
2080	Duplicate Certificate	30.00
2090	Training Organization Recognition Plus Trainer Recognition Per Trainer-Normal Processing (greater than 3 working days after receipt of required documentation and fees)	360.00
2100	Training Organization Recognition Plus Trainer Recognition Per Trainer-Emergency Processing (less than or equal to 3 working days after receipt of required documentation and fees)	540.00
2200	Air Toxics Annual Fee Per Ton Emitted on an Annual Basis:	90.00
Note 13	Class I Pollutants	129.60
	Class II Pollutants	64.80
	Class III Pollutants	32.40
2300 *Note 14*	Criteria Pollutant Annual Fee Per Ton Emitted on an Annual Basis: Nitrogen oxides (NO _x) Sulfur dioxide (SO ₂) Non-toxic organic (VOC) Particulate (PM ₁₀)	11.66/ton
2400	An application approval fee for Stage II Vapor Recovery	120.00
	An annual facility inspection fee for Stage II Vapor Recovery	180.00
2600 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	240.00
2620 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 2	480.00
2630 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 3	3000.00
2800	An application fee for mobile sources emissions banking (auto scrappage)	60.00
2810	An application fee for point source emissions banking. Not applicable when filing application with a new permit or permit modification.	60.00
	*** [See Prior Text in 2900-2914]	

Explanatory Notes for Fee Schedule

Notes 1. - 10. ...

Note 11. The maximum annual maintenance fee for categories 1430-1490 is not to exceed \$34,390 (effective July 1, 2002) total for any one gas transmission company.

Note 12. The maximum annual maintenance fee for one location with two or more plants shall be \$1,556 (effective July 1, 2002).

Note 13. Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51.Table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility. The minimum fee for this category shall be \$120 (effective July 1, 2002).

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions that occurred during the previous calendar year. The minimum fee for this category shall be \$120 (effective July 1, 2002).

Notes 14a. - 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 30:2341, and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420

(November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality Hazardous Waste

Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

A. ...

B. Application Fee Schedule

Item	Fee
Site analysis—per acre site size	\$ 300
Process and plan analysis	\$1,200
Facility analysis—per facility ²	\$ 600
Management/financial analysis	\$1,200

[Note: Fee equals total of the four items.]

¹ Up to 100 acres, no additional fee thereafter.

² Incinerator, land farm, treatment pond, etc. each counted as a facility.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:287 (March 2001), LR 29:

§5119. Calculation of Annual Maintenance Fees

A. Fee per Site

Off-Site Disposer (Commercial)	\$95,760
Reclaimer (compensated for waste removed)	\$42,000
Reclaimer (uncompensated for waste removed or pays for waste removed)	\$30,000
Off-Site Disposer (Noncommercial)	\$24,000
On-Site Disposer	\$12,000

[NOTE: The higher fee for off-site disposal is due to the cost of the manifest system and emergency response to transport spills (neither cost is applicable to on-site disposers).]

B. Fee per Hazardous Waste Facility Type

Unit Type	Fee
Storage:	
Container/Tank/Waste Pile/etc.	\$3,928
Treatment:	
Incinerator/Boiler/Industrial Furnace/Filtration Unit/etc.	\$6,324
Disposal:	
Landfill/Miscellaneous Unit/etc.	\$9,924

C. Fee Based on Volume

Less than 1,000 tons	\$ 2,342
Less than 10,000 tons	\$ 5,885
Less than 100,000 tons	\$ 9,427
Less than 1,000,000 tons	\$12,970
More than 1,000,000 tons	\$16,512

D. - E. ...

F. Land Disposal Prohibitions Fee. Treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies

to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

On-Site	\$1,200
Off-Site Noncommercial	\$2,400
Reclaimer	\$3,000
Off-Site Commercial	\$6,000

G. - J. ...

K. Formula to Apportion Fees

Annual Maintenance Fee = Fee per site + Fee per facility + Fee based on volume + Annual research and development fee + Administrative cost fee + Land disposal prohibitions fee + Groundwater protection annual fee + Incineration inspection and monitoring fee + Boiler/industrial furnace inspection and monitoring fee + Annual landfill inspection and monitoring fee + Annual land treatment unsaturated zone monitoring inspection fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 18:1375 (December 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5120. Land Disposal Prohibition Petition Fees

A. Petitions submitted in accordance with R.S. 30:2193(E)(2) and/or LAC 33:V.Chapter 22 are subject to additional fees as noted below for each petition submitted. These fees must be submitted at the time a petition is submitted.

Variance	\$12,000
Exemption	\$54,000
Extension	\$ 6,000
No-Alternatives Determinations:	
Original Petition	\$12,000
Renewal Petition/Request	\$12,000
Request for determination for addition of a hazardous waste(s) not covered by existing determination	\$ 1,200

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), LR 28:

§5123. Registration Fees, HW-1

A. An initial registration fee is charged for each generator, transporter, or TSD facility obtaining an EPA Identification Number from the department. There is no fee for modifying an existing registration based on any change of information submitted on Notification Form HW-1.

Initial Fee	\$11.35
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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:319 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 14:622 (September 1988), LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5125. Annual Monitoring and Maintenance Fee

A. Fee will annually be \$340, plus the prohibited waste fee.

B. Annual prohibited waste fee is \$120 for each generator who generates for land disposal as provided in LAC 33:V.Chapter 22. The generator will be subject to this fee if any waste generated is prohibited from disposal at any time during the year for which the fee is assessed.

C. All annual fees provided by this Chapter shall be paid by the due date indicated on the invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:321 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 17:658 (July 1991), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5135. Transporter Fee

A. All transporters of hazardous waste with a facility in Louisiana shall pay a fee of \$240 per year to the department. There will be only one fee regardless of the number of vehicles in the service of the transporter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5137. Conditionally Exempt Small Quantity Generator Fee

A. Conditionally exempt small quantity generators (see LAC 33:V.108) shall pay a fee of \$60 per year to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001), LR 29:

§5139. Groundwater Protection Permit Review Fee

A. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and groundwater protection aspects.

Hazardous Waste Facilities (1 time)	\$6,000 each
Permit Modifications:	
Class 1 and 2	\$ 240 each
Class 3	\$ 900 each
Solid Waste Facilities (1 time)	\$6,000 each
Permit Modifications:	
Major	\$ 600 each
Minor	\$ 240 each

B. Oversight of Abandonment Procedures. This fee covers the cost of reviewing plans to plug and abandon all permitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Casing pulled	\$120 each
Casing reamed out	\$240 each
Casing left in place	\$600 each

C. Groundwater Monitoring Systems Installation Permit. This fee covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications for units subject to permitting under these regulations.

Each Well	\$600
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D. Groundwater Monitoring Systems Inspection Fee (Annual). This fee covers the cost of inspecting monitoring systems for units subject to permitting under these regulations, to ensure that they are functioning properly and continue to maintain their integrity.

Each Well	\$300
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AUTHORITY NOTE: Promulgated in accordance with 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Groundwater Division, LR 14:621 (September 1988), amended LR 16:685 (August 1990), amended by the Hazardous Waste Division, LR 18:725 (July 1992), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5141. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee

A. Trial Burn or Test Burn Observer Fee. This is a special fee charged at a daily rate to cover the cost to the department of providing and placing on site a regulatory observer team during incinerator trial burns, boiler/industrial furnace trial burns, or other types of test burns required by regulations or the administrative authority when an observer team is required by regulations, specified by permit conditions, or considered necessary to ensure that human health and the environment are adequately protected.

1. This fee will be \$600 for each day of the test burn or trial burn.

2. This fee will be billed following completion of the trial burn or test burn and must be paid by the due date indicated on the invoice.

B. Annual Monitoring and Maintenance Fee for Incinerators, Boilers, Industrial Furnaces, and Commercial Recycling Furnaces. This is an annual fee applied to defray the cost of annually inspecting the required continuous monitors and recording devices for each incinerator, boiler, or industrial furnace to determine whether they are being properly maintained and calibrated. This fee will annually be a flat \$1,200.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:1375 (December 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000), LR 29:

§5143. Annual Landfill Inspection and Monitoring Fee

A. An annual fee shall be charged for the inspection of the regulatory requirement for leak detection and leachate collection systems associated with hazardous waste landfills to determine operational status and degree of proper maintenance. For each landfill unit or cell with a separate leak detection and leachate collection system, the annual fee will be \$120.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:725 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§5145. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

A. Semiannual Zone of Incorporation (ZOI) Inspection Fee. This fee covers the cost of inspection and random sampling and laboratory analysis of the zone of incorporation.

ZOI soil samples	\$1,200 each acre
Soil-pore liquid monitors (Lysimeters)	\$3,000 each monitor

B. Annual Land Treatment Unit Report Review Fee. This fee covers the cost of reviewing the report required by final permits for land treatment. Included in the annual land treatment unit report are the results of the unsaturated zone monitoring. Included are the semiannual soil core sample analyses and the quarterly soil-pore liquid quality analyses from below the treatment zone. Also included are soil moisture tensiometer readings of the ZOI.

Hazardous Waste Facilities	\$1,200 each report
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C. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and hydrological separation requirements of these regulations.

Initial Permit	\$6,000 each
Permit Modifications:	
Class 1	\$ 240 each
Class 2 or 3	\$ 900 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

Part VII. Solid Waste
Subpart 1. Solid Waste Regulations
Chapter 5. Solid Waste Management System
Subchapter D. Solid Waste Fees

§525. Standard Permit Application Review Fee

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a \$3,000 permit application review fee for each facility, and the fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$600 for each facility, and the fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a \$1,200 permit-modification review fee, and the fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a \$600 permit-modification fee, and the fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.709.E.1 will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial use facilities shall pay a \$300 permit-modification review fee, and the fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§527. Closure Plan Review Fee

A. Applicants for Type I, I-A, II, and II-A closures shall pay a \$1,200 closure-plan review fee, and the fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$300 closure-plan review fee, and the fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, I-A, II, and II-A facilities shall pay a \$600 closure-plan modification review fee, and the fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$150 closure-plan modification review fee, and the fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§529. Annual Monitoring and Maintenance Fee

A. An initial fee is charged for the processing of transporter notifications.

1. The fee shall be calculated by the following formula:

$$\text{Initial fee per notification} + \text{Fee based on each vehicle owned by the transporter} = \text{Notification fee}$$

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

Initial fee	\$120
Fee Per Vehicle	\$ 30

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee for each permit. This annual monitoring and maintenance fee shall be calculated by the following formula:

$$\text{Base fee per permit} + \text{Fee based on tonnage} = \text{Annual monitoring and maintenance fee.}$$

1. Base fees are as follows:
 - a. \$7,200 for Type I facilities (including facilities that handle both industrial and nonindustrial waste);
 - b. \$1,800 for Type II facilities; and
 - c. \$600 for Type IA, II-A, III, and beneficial-use facilities.

2. Tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:

- a. for industrial wastes (Type I facilities, except surface impoundments), \$0.72/ton;
- b. for nonindustrial wastes (Type II facilities, except surface impoundments), \$0.18/ton for amounts exceeding 75,000 tons;
- c. - e. ...

3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and nonindustrial solid wastes) is \$96,000. The maximum fee per facility for Type II facilities is \$24,000. Surface impoundments, as noted above, are assessed only the base fee.

C. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

Part IX. Water Quality

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

- A. - B.3.a.i. ...
 - ii. \$104.81 per rating point from July 1, 1998, through June 30, 1999;
 - iii. \$112.12 per rating point as of July 1, 1999; and

- iv. \$134.54 per rating point as of July 1, 2002; and
- b. for all other facilities:
 - i. \$179.16 per rating point through June 30, 1998;
 - ii. \$192.60 per rating point from July 1, 1998, through June 30, 1999;
 - iii. \$206.03 per rating point as of July 1, 1999; and
 - iv. \$247.24 per rating point as of July 1, 2002.

B.4. - E.1.a. ...

- b. \$244.56 from July 1, 1998, through June 30, 1999;
- c. \$261.63 as of July 1, 1999; and
- d. \$314.00 as of July 1, 2002.

E.2. - 2.a. ...

- b. \$101,587.50 from July 1, 1998, through June 30, 1999;
- c. \$108,675 as of July 1, 1999; and
- d. \$130,410 as of July 1, 2002.

F. - M. ...

N. Other Fees

Permit Type	Amount
Gen-LAG11-Concrete/Asphalt	\$293
Gen-LAG33-Coastal	\$2,400
Gen-LAG47-Auto Repair/Dealers	\$240
Gen-LAG119-Concrete/Asphalt (SW)	\$352
Gen-LAG78-C&D Landfills	\$600
Gen-LAG89-Type D Truck Maintenance	\$600
Gen-LAG75-Exterior Vehicle Wash	\$240
Gen-LAG-Animal Waste	\$273
Gen-LAR-Baseline	\$90
Gen-LAG87-Bulk Terminals	\$293
Gen-LAR10-Construction	\$240
Gen-LAG67-Hydrostatic Test	\$273
Gen-LAG48-Light Commercial	\$314
Gen-LAR05-Multi-Sector	\$90
Gen-LAG38-Potable Water	\$314
Gen-LAG949-GW Remediation (SW)	\$900
Gen-LAG49-Sand and Gravel	\$600
Gen-LAG26-Territorial Seas	\$2,400
Gen-LAG30-UST Dewatering	\$90
Gen-LAG94-GW Remediation	\$900
Gen-LAG679-Hydrostatic Test (SW)	\$720
Gen-LAG759-Mobile Vehicle/Equipment Wash	\$288
Gen-LAG83- Petroleum UST Remediation	\$900
Gen-LAG839-Petroleum UST (SW)	\$2,400
Gen-LAG14-RR Classified Yards	\$293
Gen-LAG53-Sanitary Class I	\$90
Gen-LAG54-Sanitary Class II	\$240
Gen-LAG56-Sanitary Class III	\$450
Gen-LAG57-Sanitary Class IV	\$540
Gen-LAG309-UST Dewatering (SW)	\$774
Gen-LAG98-Vermilion Basin Sanitary	\$294

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§1507. Procedures For Issuance Of Water Quality Certification

A. - A.1.n.iv. ...

2. Processing Fee

a. A one-time processing fee will be assessed all applicants to help defray the costs of this expanded program. The fee schedule will be as follows.

Noncommercial Activities	\$30/application
Commercial Activities	\$318/application

b. Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by check or money order to Department of Environmental Quality, Office of Management and Finance, Financial Services Division and shall be nonrefundable.

A.3. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. - B. ...

1. Fees are assessed according to the following schedule.

Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$ 54
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$600
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$144
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$144
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$275

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

A. - C. ...

D. Fees. The following fees are hereby established for certification and renewal:

1. examination fee for individual certification, \$120; and
2. certification renewal fee, \$120.

E. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:

Part XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§579. Identification Cards

A. - A.3. ...

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Services, Permits Division a written request for a replacement I.D. card, stating the reason a replacement I.D. card is needed. A non-refundable fee of \$24 shall be paid to the department for each replacement of an I.D. card. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the department.

B. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 29:36 (January 2003), LR 29:

Chapter 25. Fee Schedule
Appendix A

Appendix A Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
I. Radioactive Material Licensing		
A. Medical licenses:		
1. Therapy:		
a. Teletherapy	666	666
b. Brachytherapy	666	666
2. Nuclear medicine diagnostic only	822	822
3. Nuclear medicine diagnostic/therapy	882	882
4. Nuclear pacemaker implantation	330	330
5. Eye applicators	330	330
6. In-vitro studies or radioimmunoassays or calibration sources	330	330
7. Processing or manufacturing and distribution of radiopharmaceuticals	1296	1104
8. Mobile nuclear medicine services	1296	1104
9. "Broad scope" medical licenses	1296	1104
10. Manufacturing of medical devices/sources	1512	1260
11. Distribution of medical devices/sources	1134	942
12. All other medical licenses	366	366
B. Source material licenses:		
1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material	6552	6552
2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powdered solid)	3276	3276
3. For the concentration of uranium from or in phosphoric acid	1638	1638
4. All other specific "source material" licenses	330	330
C. Special nuclear material (SNM) licenses:		
1. For use of SNM in sealed sources contained in devices used in measuring systems	504	504
2. SNM used as calibration or reference sources	330	330
3. All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	330	330
D. Industrial radioactive material licenses:		
1. For processing or manufacturing for commercial distribution	6480	4878
2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	1104	870
3. For industrial radiography operations performed at temporary jobsite(s) of the licensee	3252	2448
4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	1638	822
5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	3252	1626
6. For distribution of items containing radioactive material	1638	1638
7. Well-logging and subsurface tracer studies:		
a. Collar markers, nails, etc. for orientation	330	330
b. Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	978	978
c. Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Curies	1638	1638
d. Field flood studies and/or tracers equal to or greater than 5 Curies	2460	2460
8. Operation of a nuclear laundry	6492	3252
9. Industrial research and development of radioactive materials or products containing radioactive materials	822	822
10. Academic research and/or instruction	666	666
11. Licenses of broad scope:		
a. Academic, industrial, research and development, total activity equal to or greater than 1 Curie	1638	1638
b. Academic, industrial, research and development, total activity less than 1 Curie	978	978
12. Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	330	330
13. Calibration sources equal to or less than 1 Curie per source	330	330
14. Level or density gauges	504	504
15. Pipe wall thickness gauges	666	666
16. Soil moisture and density gauges	504	504
17. NORM decontamination/maintenance:		
a. at permanently designated areas at the location(s) listed in the license	3780	3150
b. at temporary jobsite(s) of the licensee	3780	3780
18. Commercial NORM storage	3150	3150
19. All other specific industrial licenses except as otherwise noted	666	666
20. Commercial NORM treatment	15,120	12,600
E. Radioactive waste disposal licenses:		
1. Commercial waste disposal involving burial	850,500	850,500
2. Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	6480	3252
3. All other commercial waste disposal involving storage, packaging and/or transfer	3252	3252
F. Civil defense licenses		
	396	330
G. Teletherapy service company license		
	1638	1638

**Appendix A
Radiation Protection Program Fee Schedule**

	Application Fee	Annual Maintenance Fee
H. Consultant licenses:		
1. No calibration sources	162	94
2. Possession of calibration sources equal to or less than 500 mCi each	240	162
3. Possession of calibration sources greater than 500 mCi	330	240
4. Installation and/or servicing of medical afterloaders	438	378
II. Electronic Product Registration		
1. Medical diagnostic X-ray (per registration)	107	107
2. Medical therapeutic X-ray (per registration):		
a. below 500 kVp	252	252
b. 500 kVp to 1 MeV (including accelerator and Van deGraaf)	504	504
c. 1 MeV to 10 MeV	756	756
d. 10 MeV or greater	1008	1008
3. Dental X-ray (per registration)	95	88
4. Veterinary X-ray (per registration)	95	95
5. Educational institution X-ray (teaching unit, per registration)	156	95
6. Industrial accelerator (includes Van de Graaf machines and neutron generators)	504	504
7. Industrial radiography (per registration)	252	252
8. All other X-ray (per registration) except as otherwise noted	114	114
III. General Licenses		
A. NORM (Wellhead fee per field shall not exceed \$1890 per operator. Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1. 1-5 contaminated wellheads	126	126
2. 6-20 contaminated wellheads	630	630
3. >20 contaminated wellheads	1890	1890
4. Stripper wells-contaminated (\$630 maximum for strippers per field):	126	126
a. 1 to 5 contaminated stripper wells	126	126
b. > 5 contaminated stripper wells	630	630
5. NORM locations (other than fields):		
a. gas plants, pipeyards, chemical plant, refinery	378	378
b. warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	378	378
6. Interim container storage per NORM Waste Management Plan of an approved location		1260
7. NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	126	126
B. Tritium sign	90	0
C. All other general licenses which require registration	126	126
IV. Reciprocal Recognition		
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.		
V. Shielding Evaluation (per room)		
A. Diagnostic	126	*
B. Therapeutic (below 500 kVp)	190	*
C. Therapeutic (500 kVp to 1 MeV)	312	*
D. Therapeutic (1 MeV to 10 MeV)	438	*
E. Therapeutic (10 MeV or greater)	948	*
F. Industrial and industrial radiography	438	*
VI. Device, Product, or Sealed Source Evaluation		
A. Device evaluation (each)	882	*
B. Sealed source design evaluation (each)	570	*
C. Update sheet	190	*
VII. Testing		
Testing to determine qualifications of employees, per test administered	162	*
VIII. Nuclear Electric Generating Station		
Located in Louisiana		357,600
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)		259,200
Uranium Enrichment Facility		63,000
IX. La. Radiation Protection Program Laboratory Analysis Fees		
Sample Type	Analysis	Unit Price
A. Air filters:		
1. Particulate	Gross beta	70
2. Charcoal cartridge	Gamma	198
	Gamma/I-131	198
B. Milk	Gamma	210
	I-131	228
C. Water	Gamma	228
	I-131	228
	H-3	84

Appendix A Radiation Protection Program Fee Schedule		
	Application Fee	Annual Maintenance Fee
D. Sediment	Gamma	240
E. Vegetation	Gamma	228
F. Fish	Gamma	240
G Leak test	Gamma H-3	198 84
H. NORM sample:		
1. Soil	Gamma	210
2. Produced water	Gamma	228
* Fees are charged one time		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:956 (September 1992), amended LR 19:624 (May 1993), LR 21:792 (August 1995), repromulgated LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:

L. Hall Bohlinger
Secretary

0302#056

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of State Purchasing**

LaMAS (Louisiana Multiple Award Schedule) State
Contracts based on GSA Prices
(LAC 34:I.2506)

The Division of Administration, Office of State Purchasing is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to establish additional rules in Chapter 25 on Intergovernmental Regulations as Section 2506 under the authority of R.S. 39:1581 and R.S. 39:1702.A.(2) with the following Section. The Office of the Governor, Division of Administration, Office of State Purchasing, hereby finds that this Rule is necessary to permit the establishment of state contracts based on GSA prices to realize potential savings considering the current financial conditions of the state, and accordingly finds it imperative that the rules be implemented as soon as possible. This Rule shall become effective upon publication, for 120 days, or until promulgation of the final rules, whichever occurs first. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Chapter 25. Intergovernmental Regulations

§2506. LaMAS (Louisiana Multiple Award Schedule)

State Contracts Based on GSA Prices

A. The state Central Purchasing Agency of the Division of Administration may establish State contracts based on GSA (General Service Administration) pricing when it has been determined in writing by the director of State Purchasing that certain conditions are met, which shall become part of the procurement file.

B. Materials, supplies, or equipment shall not be purchased on a state contract based on adopted GSA pricing at a price higher than the price of the same item listed on any available state purchasing contract.

C. Establishment of a state contract based on GSA pricing will only be considered when there is a valid business case.

D. State agencies shall not procure materials, supplies or equipment directly under a GSA contract. The State Central Purchasing Agency of the Division of Administration will:

1. be responsible for analyzing and determining the feasibility of establishing a LaMAS state contract based on GSA prices; and
2. issue procedures for establishment and utilization of this type of contract.

E. No use shall be made of a LaMAS contract without the participation of a Louisiana licensed dealer or distributor. Louisiana licensed dealers or distributors must meet the requirement of a resident business defined in R.S. 39:1591(6). Louisiana licensed dealers or distributors shall agree to:

1. Louisiana terms and conditions; and
2. provide written consent from the GSA contractor to extend current GSA pricing to the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 39:1702.A.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, State Purchasing, LR 29:

Denise Lea
Director

0302#023

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Early and Periodic Screening, Diagnosis and Treatment
Dental Program Reimbursement
(LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department of Health and Hospitals, Bureau of Health Services Financing is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the Bureau proposes to clarify the descriptions for two Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental procedure codes and adjust the reimbursement rates to conform with the HIPAA compliant procedure code descriptions.

This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act. It is estimated that implementation of this Emergency Rule will decrease expenditures for EPSDT dental services by approximately \$111 for state fiscal year 2002-2003.

Effective for dates of services on or after February 21, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing clarifies the procedure descriptions and adjusts the reimbursement fees for the following Early and Periodic Screening, Diagnosis and Treatment dental procedure codes.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis, and Treatment

Chapter 69. Dental

§6903. Reimbursement

A. Reimbursement Fees are adjusted for certain designated procedure codes to the following rates.

Procedure Code	Procedure	Rate
*** [See Prior Text in 00120 - 02931]		
02950	Core Buildup, including any pins	\$55
02954	Prefabricated Post and Core in addition to crown	\$75
*** [See Prior Text in 03220 - 07210]		

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0302#029

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Nursing Facilities Reimbursement Methodology
(LAC 50:VII.1305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing published an emergency rule amending the requirements governing the prospective reimbursement methodology for nursing facilities in order to revise the capitol cost component and clarify other components of the reimbursement methodology effective for dates of service January 1, 2003 and thereafter (*Louisiana Register*, volume 29, number 1). The Department has now determined that it is necessary to rescind this emergency rule and notification is provided to interested persons through this medium.

David W. Hood
Secretary

0302#034

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Pharmacy Benefits Management Program Prescriptions Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services promulgates the following emergency rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This emergency rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing published an emergency rule establishing a limit of eight prescriptions per month in the Pharmacy Benefits Management Program effective for dates of service February 3, 2003 and thereafter (*Louisiana Register*, volume 29, number 1). The Department has now determined that it is necessary to rescind this Emergency Rule and notification is provided to interested persons through this medium.

David W. Hood
Secretary

0302#006

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Private Hospitals COutlier Payments

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established a reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under six years of age (*Louisiana Register*, volume 20, number 6). The reimbursement methodology also addressed payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. An outlier payment is calculated on an individual case basis and paid at cost if covered charges for medically necessary services exceeds 200 percent of the prospective payment.

The June 20, 1994 Rule was subsequently amended to revise the qualification and calculation for outlier payments

(*Louisiana Register*, Volume 22, Number 2). To qualify for an outlier payment, the covered charges for the case must exceed both \$150,000 and 200 percent of the prospective payment. Outlier cases qualifying under these criteria are reimbursed the marginal cost associated with the excess cost above the prospective payment amount. As a result of the allocation of funds by the Legislature during the 2002 Regular Session, the bureau has determined it is necessary to reduce the outlier payments made to private hospitals by amending the definition of marginal cost contained in the February 20, 1996 Rule. In addition, the bureau proposes to change the base period for the hospital specific cost-to-charge ratio that is currently utilized for the calculation of outlier payments and establish a deadline for receipt of the written request filing for outlier payments.

Taking into consideration the reduction in outlier payments in state fiscal year 2002-2003, the department has carefully reviewed the proposed payments and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services for children under six years of age and infants up to one year of age under the state plan are available at least to the extent that they are available to children in the general population in the state.

This action is being taken to avoid a budget deficit in the medical assistance program.

Emergency Rule

Effective for dates of service on or after February 28, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the February 20, 1996 Rule by changing the definition of marginal cost. The marginal cost factor for outliers shall be considered to be 100 percent of costs after the costs for the case exceed the hospital's prospective payment. Outlier payments are not payable for transplant procedures as transplants are not reimbursed on a prospective basis. In addition, the bureau amends the reimbursement methodology for calculating outlier payments for private hospitals to change the hospital specific cost-to-charge ratio from the base period currently being utilized to a hospital specific cost-to-charge ratio based on the hospital's cost report period ending in state fiscal year (SFY) 2000 (July 1, 1999 through June 30, 2000). The cost-to-charge ratio for new hospitals and hospitals that did not provide Medicaid Neonatal Intensive Care Unit (NICU) services in SFY 2000 will be calculated based on the first full year cost reporting period that the hospital was open or that Medicaid NICU services were provided.

A deadline of six months subsequent to the date that the final claim is paid shall also be established for receipt of the written request filing for outlier payments.

The hospital specific cost-to-charge ratio will be reviewed bi-annually and the outlier payment may be adjusted as a result of this review at the discretion of the Secretary. Upon adoption of the Rule, hospitals shall receive notification of an impending change to the hospital specific outlier payment by means of a letter sent directly to the hospital.

Implementation of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0302#031

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Rehabilitation Services CReimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953.B.(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for rehabilitation services under the Medicaid Program. Rehabilitation services include physical, occupational and speech therapies. Reimbursement is available for these services through outpatient hospital, home health, rehabilitation center and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services. The bureau adopted a Rule establishing the reimbursement methodology for EPSDT rehabilitation services in April of 1997 (*Louisiana Register*, volume 23, number 4). The bureau also adopted a Rule establishing the reimbursement methodology for rehabilitation services rendered in rehabilitation center and outpatient hospital settings in June of 1997 (*Louisiana Register*, volume 23, number 6). The bureau adopted a subsequent Rule in May of 2001 to establish the reimbursement methodology for rehabilitation services rendered by home health agencies (*Louisiana Register*, volume 27, number 5). Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay.

Act 13 of the 2002 Regular Session of the Louisiana Legislature directed the Department to increase the reimbursement for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. In compliance with the Appropriation Bill and as a result of the allocation of additional funds by the Legislature, the Bureau increased the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services. (*Louisiana Register* volume 28, number 7)

This Emergency Rule is being promulgated to continue the provisions contained in the July 6, 2002 Rule. This action is being taken to protect the health and welfare of

Medicaid recipients under the age of three and to ensure access to rehabilitation services by encouraging the participation of rehabilitation providers in the Medicaid Program.

Emergency Rule

Effective for dates of services on or after March 5, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the April 20, 1997, June 20, 1997 and May 20, 2001 Rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals, rehabilitation centers, home health agencies and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services providers to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services. The new reimbursement rates for rehabilitation services rendered to Medicaid recipients up to the use of three are as follows.

Home Health Agencies and Outpatient Hospitals

Procedure Name	New Rate
Initial Sp/Lang Evaluation	\$ 70.00
Initial Hearing Evaluation	\$ 70.00
Sp/Lan/Hear Therapy 60 Minutes	\$ 56.00
Visit W/Procedure(S) 45 Minutes	\$ 56.00
Visit W/Procedure(S) 60 Minutes	\$ 74.00
Visit W/Procedures 90 Minutes	\$112.00
Procedures And Modalities 60 Minutes	\$ 74.00
Pt And Rehab Evaluation	\$ 75.00
Initial Ot Evaluation	\$ 70.00
Ot 45 Minutes	\$ 45.00
Ot 60 Minutes	\$ 60.00

Rehabilitation Centers

Procedure Name	New Rate
Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Speech Group Therapy Add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1 Hour	\$ 51.00
Initial Sp/Lang Evaluation	\$ 70.00
Initial Hearing Evaluation	\$ 70.00
Sp/Lang/Hear Therapy 30 Min utes	\$ 26.00
Sp/Lang/Hear Therapy 45 Minutes	\$ 39.00
Sp/Lang/Hear Therapy 60 Minutes	\$ 52.00
Visit W/Procedure(S) 30 Minutes	\$ 34.00
Visit W/Procedure(S) 45 Minutes	\$ 51.00
Visit W/Procedure(S) 60 Minutes	\$ 68.00
Visit W/Procedure(S) 75 Minutes	\$ 85.00
Visit W/Procedure(S) 90 Minutes	\$102.00
Ctr Visit One/More Modal/Proc 15 Minutes	\$ 17.00
Procedures And Modalities 60 Minutes	\$ 68.00
Pt And Rehab Evaluation	\$ 75.00
Initial Ot Evaluation	\$ 70.00
Ot 30 Minutes	\$ 26.00
Ot 45 Minutes	\$ 39.00
Ot 60 Minutes	\$ 52.00

EPSDT Health Services

Procedure Name	New Rate
Electrical Stimulation	\$ 17.00
Pt-One Area-Therapeutic-30 Minutes	\$ 17.00
Pt-Neuromuscular Reed-30 Minutes	\$ 17.00
Pt-Gait Training-30 Minutes	\$ 34.00
Orthotic Training	\$ 14.00
Kinetic Act One Area-30 Minutes	\$ 14.00

Physical Performance Test	\$ 14.00
Physical Therapy Evaluation/Re-Evaluation	\$ 92.00
Occ Therapy Evaluation/Re-Evaluation	\$ 70.00
Speech/Language Evaluation/Re-Evaluation	\$ 70.00
Speech/Language Therapy 30 Minutes	\$ 26.00
Speech/Language Therapy Add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Speech Group Therapy 20 Minutes	\$ 13.00
Speech Group Therapy Add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1 Hour	\$ 52.00
Speech Lang Hearing Therapy 20 Minutes	\$ 17.00
Sp/Lan/Hear Therapy 60 Minutes	\$ 52.00
Procedures And Modalities 30 Minutes	\$ 34.00
Procedures And Modalities 45 Minutes	\$ 52.00

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

Interested persons may submit written comments to Ben A. Bearden, at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0302#032

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

State-Operated Intermediate Care Facilities for the Mentally Retarded/CUpper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following emergency rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Human Resources, Office of the Secretary promulgated a rule in April 1983 establishing a uniform rate setting system for 24-hour care facilities. Under this reimbursement methodology, rates for each participating facility were established individually resulting in various rates for the same level of care (*Louisiana Register*, volume 9, number 4). The April 1983 rule was subsequently amended to adopt prospective rates for private mental retardation facilities licensed to provide services to Title XIX recipients (*Louisiana Register*, volume 15, number 7). The Department now proposes to amend the reimbursement methodology for state-operated intermediate care facilities for the mentally retarded and establish payments using a formula for establishing per diem rates at the Medicare Upper Payment Limit for these services.

This action is being taken to enhance federal revenues in the Medicaid Program. It is estimated that revenues of

approximately \$2,790,641 will be generated in state fiscal year 2002-03 as a result of the implementation of this Emergency Rule.

Emergency Rule

Effective for dates of services on or after February 9, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for state operated intermediate care facilities for the mentally retarded (ICFs-MR) and establishes payments using a formula for establishing per diem rates at the Medicare Upper Payment Limit for these services.

Medicaid payments to state-owned and operated ICFs-MR shall be based on the basic Medicare formula for determining the routine service cost limits, as follows:

1. calculate each state owned and operated ICF-MR's per diem routine costs in a base year;
2. calculate 112 percent of the average per diem routine costs; and
3. inflate 112 percent of the per diem routine costs using the skilled nursing facility (SNF) market basket index of inflation. Each state-owned and operated facility's capital and ancillary costs will be paid by Medicaid on a "pass-through" basis.

The sum of the calculations for routine service costs and the capital and ancillary costs ~~apass-through~~ shall be the per diem rate for each state-owned and operated ICF-MR. The base year cost reports to be used for the initial calculations shall be the cost reports for the fiscal year ended June 30, 2002.

Implementation of the provisions of this rule will be delayed until March 9, 2003 and shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0302#030

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Mentally Retarded/Developmentally Disabled Waiver Skilled Nursing Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the

Act or until adoption of the final Rule, whichever occurs first.

Under the provisions of Section 1915(c) of the Social Security Act, states may provide services not generally reimbursable by the Medicaid Program to groups of individuals in the community who meet the qualifications for institutional care. Such programs are known as home and community based services waivers. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June 1990 establishing the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver and the provisions governing the services covered under the waiver (*Louisiana Register*, volume 16, number 7). The MR/DD Waiver is one of the five waivers that are currently administered by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services.

The Bureau of Community Supports and Services has determined that it is necessary to incorporate a new service into the MR/DD Waiver (*Louisiana Register*, volume 28, number 10). The Centers for Medicare and Medicaid Services has approved a waiver amendment to add skilled nursing services to the list of services provided under the MR/DD Waiver.

This Emergency Rule is being repromulgated to continue the provisions of the November 1, 2002 Rule. This action is being taken to protect the health and welfare of MR/DD Waiver recipients by providing skilled nursing services to those individuals in need of such services. It is estimated that implementation of this emergency rule will increase expenditures for services by approximately \$1,464,000 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on and after March 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services amends the July 20, 1990 Rule to include skilled nursing services as a service in the Mentally Retarded/Developmentally Disabled Waiver.

Recipient Criteria

A. Skilled nursing services will be available to medically fragile individuals who meet the following criteria:

1. are ventilator dependent or non-ambulatory, or have undergone a tracheotomy, or gastrostomy;
and

2. require life-sustaining equipment (ventilator, suction machines, and/or pulse oximeters, apnea monitors, nebulizers);
and

3. are medically approved by their primary physician, as documented by a doctor's order and a letter of medical necessity from the physician.

Provider and Staff Qualifications

A. A home health agency must enroll as a MR/DD waiver service provider in order to provide skilled nursing services under the MR/DD Waiver.

B. Skilled nursing services shall be provided by either a licensed registered nurse or a licensed practical nurse employed by a Medicaid enrolled home health agency.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana

70821-9030. She is the person responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0302#065

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Penalty Waiver
(LAC 61:III.2101)

The Louisiana Department of Revenue is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt this Emergency Rule pertaining to LAC 61:III.2101 pertaining to a penalty waiver for delinquent filing or delinquent payment.

The purpose of this rule is to inform the public of the documentation required when submitting requests for waiver of delinquent filing or late payment penalty and of factors that will be considered by the Department of Revenue in evaluating waiver requests. Title 47 Section 1603 provides that if the failure to file on time or the failure to timely remit the full amount due is not due to the negligence of the taxpayer, but is due to other causes set forth in written form and considered reasonable, the Secretary may waive the penalty in whole or in part. When the penalty exceeds five thousand dollars, the waiver must be approved by the Board of Tax Appeals.

This Emergency Rule shall be effective February 5, 2003 and remain in effect for a period of 120 days or until a final rule is adopted, whichever occurs first.

Title 61

REVENUE AND TAXATION

Part III. Department of Revenue; Administrative Provisions and Miscellaneous

Chapter 21. Interest and Penalties

§2101. Penalty Waiver

A. The Secretary may waive a penalty in whole or in part for the failure to file a return on time or the failure to timely remit the full amount due when the failure is not due to the taxpayer's negligence and is considered reasonable. All penalty waiver requests must be in writing and be accompanied by supporting documentation. If the combined penalties for a tax period exceed one hundred dollars, all of the facts alleged as a basis for reasonable cause must be fully disclosed in an affidavit sworn before a notary public in the presence of two witnesses and accompanied by any supporting documentation. The affidavit must be signed by the taxpayer, or in the case of a corporation, by an officer of the corporation. Where the taxpayer or officer does not have personal knowledge of such facts, the sworn affidavit may be signed on the taxpayer's or officer's behalf by a responsible individual with personal knowledge of such facts. In lieu of an affidavit, the taxpayer may submit a Request for Waiver of Penalties for Delinquency Form signed by the taxpayer, or in the case of a corporation, by an officer of the corporation. Where the taxpayer or officer does

not have personal knowledge of such facts, the Request for Waiver of Penalties for Delinquency Form may be signed on the taxpayer's or officer's behalf by a responsible individual with personal knowledge of such facts. The Request for Waiver of Penalties for Delinquency Form must be accompanied by any supporting documentation.

B. Before a taxpayer's request for penalty waiver will be considered, the taxpayer must be current in filing all tax returns and all tax, penalties not being considered for waiver, fees and interest due for any taxes/fees administered by the Department of Revenue must be paid.

C. In determining whether or not to waive the penalty in whole or in part, the department will take in account both the facts submitted by the taxpayer and the taxpayer's previous compliance record with respect to all of the taxes/fees administered by the Department of Revenue. Prior penalty waivers will be a significant factor in assessing the taxpayer's compliance record. Each waiver request submitted by the taxpayer will be considered on an individual basis. Each tax period or audit liability will be considered separately in determining whether the penalty amount mandates approval of the waiver by the Board of Tax Appeals. The delinquent filing and delinquent payment penalties will also be considered at separately in making this determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1603.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of the Secretary, LR 29:

Cynthia Bridges
Secretary

0302#042

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives Women's and Children's Residential and Prevention Treatment Program (LAC 67:III.5521)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend §5521 effective March 8, 2003. This Emergency Rule will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of November 8, 2002, since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (The final Rule will be published in March 2003).

Act 12 of the 2001 Regular Session of the Louisiana Legislature authorized the Office of Family Support to implement the TANF Initiative, Women and Children's Residential Prevention and Treatment Program, through a Memorandum of Understanding with the Office of Addictive Disorders. Eligibility factors were established which limited services to needy families who were eligible for certain types of benefits.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature and in an effort to expand the groups targeted for services under this program, the agency will include needy families who have earned income at or below 200 percent of the federal poverty level.

The authorization for emergency action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5521. Women and Children's Residential Prevention and Treatment Program

A. - B. ...

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or effective October 1, 2002, who has earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 29:

Gwendolyn Hamilton
Secretary

0302#051

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Closure of State Outside Waters to Shrimping

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the eastern shore of Freshwater Bayou to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at latitude 29E 03' 10" N and longitude 90E 50' 27" W. This

closure is effective at 6 a.m., Monday, February 10, 2003. The Commission also hereby orders that that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at latitude 29E 03' 10" N and longitude 90E 50' 27" W to the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel Buoy Line, shall reopen to shrimping at 6 a.m. on Monday, April 14, 2003.

R.S. 56:498 provides that the minimum legal count on white shrimp is 100 (whole shrimp) count per pound after the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of state outside waters do not average 100 count minimum legal size and additional small white shrimp are expected to recruit to these waters. This action is being taken to protect these small

white shrimp and provide them the opportunity to grow to a larger and more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of remaining state outside waters, if biological and technical data indicates the need to do so, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open special seasons for the harvest of white shrimp in any portion of state inside waters where such a season would not detrimentally impact small brown shrimp.

Terry D. Denmon
Chairman

0302#038

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
CInstructional Program Standards
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The change in the Rule changes the name of the Proficient achievement level to the Mastery achievement level for LEAP 21 and GEE 21. This change is required by the No Child Left Behind Act of 2001.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended, LR 27:694-695 (May 2001), LR 27:695-702 (May 2001), LR 27:815-820 (June 2001), LR 28:1936 (September 2002), LR 29:117 (February 2003).

Instructional Program Standards

Louisiana Educational Assessment Program

1.009.03 Each school system shall participate in the Louisiana Educational Assessment Program.

Performance standards for *LEAP for the 21st Century* (LEAP 21) and Graduation Exit Examination for the 21st Century (GEE 21) are equal to the rigor of the National Assessment of Educational Progress (NAEP) performance standards.

Achievement Level Labels

Label and Short Description	Policy Definition
Advanced	A student at this level has demonstrated superior performance beyond the mastery level.
Mastery (Exceeding the Standard)	A student at this level has demonstrated competency over challenging subject matter and is well prepared for the next level of schooling.
Basic (Meeting the Standard)	A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.
Approaching Basic (Approaching the Standard)	A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.
Unsatisfactory	A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

District-wide test results, but not scores or rankings of individual students, shall be reported to the local educational governing authority at least once a year at a regularly scheduled local educational governing authority meeting.

A school system shall not conduct any program of specific preparation of the students for the assessment program by using the particular test to be administered therein.

Weegie Peabody
Executive Director

0302#004

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel
C Denial of Certificate for Criminal Offenses
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The Rule change includes language relative to specific criminal offenses that is consistent with the laws requiring background checks. The change adds language requiring a current FBI criminal background check and specifies the evidence to be presented for documentation of rehabilitation.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 27:825, 828 (June 2001); LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:1727 (August 2002), LR 29:117 (February 2003).

Denial of Certificates for Criminal Offenses

I. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term "applicant" shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purpose of denial.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude the denial of a teaching certificate.

IV. When the department is notified that any applicant has been convicted of a specific crime:

A. The applicant shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied and that a hearing will be conducted by a board committee to consider issuance of Louisiana certification.

B. If the applicant cannot be reached and/or if his/her employment status cannot be determined, denial of the certificate shall proceed as will all other steps in the process outlined in this policy.

C. An applicant may contact the office of the board and request a hearing prior to the date set for the denial consideration by the board. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The applicant shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Upon official action by the board, any applicant whose certificate has been denied, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for issuance of his/her certificate.

VI. If the conviction upon which an applicant's certificate has been denied is reversed, vacated, or set aside such action may be communicated to the board through documentation from the court in which the conviction occurred.

VII. An applicant whose certification has been denied under the provisions of this part may apply for issuance only after the time restriction has been completed.

VIII. Time Restrictions on Applications for Reinstatement:

A. Certificate issuance will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. Issuance of certificates shall not be considered for any final felony conviction until at least three years have elapsed from the date of the final conviction.

IX. Procedures for Issuance:

A. An applicant may apply to the board for issuance of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal background check that is clean and clear.

2. There has been successful completion of all conditions and/or requirements of parole and/or probation. The applicant must provide relevant documentation, such as, copies of court records, sentencing recommendations, probation release forms. He/she must also provide written verification from the applicant's parole/probation officer that all requirements have been completed and/or met.

3. There is documented evidence of rehabilitation. The applicant is responsible for providing copies of every requested document. (a, b, and c are required items, d and e are recommended items):

a. written approval for reinstatement from the local district attorney in which the conviction occurred;

b. written approval for reinstatement from the local judge from the jurisdiction in which the conviction occurred;

c. letter of support from local Superintendent;

d. letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

e. other letters of support or written reports that verify the applicant's rehabilitation.

4. The applicant requests a hearing for issuance of certificate.

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above.

C. The board is not required to conduct an issuance hearing and may summarily deny a request for issuance.

D. If the board or its designees decide to conduct an issuance hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

E. The committee of the board shall make a recommendation to the full board regarding whether the teaching certificate should be granted, or denied. board staff shall notify the applicant of the board's action.

X. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Attachment 1

The following crimes are reported under R.S.15:587.1: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.) Specifically:

- *R.S. 14:30 First degree murder
- *R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- *R.S. 14:41 Rape
- *R.S. 14:42 Aggravated rape
- *R.S. 14:42.1 Forcible rape
- *R.S. 14:43 Simple rape
- *R.S. 14:43.1 Sexual battery
- *R.S. 14:43.2 Aggravated sexual battery
- *R.S. 14:43.3 Oral sexual battery
- *R.S. 14:43.4 Aggravated oral sexual battery
- *R.S. 14:43.5 Intentional exposure to the AIDS virus
- *R.S. 14:44 Aggravated kidnapping
- *R.S. 14:44.1 Second degree kidnapping
- *R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- *R.S. 14:78 Incest
- *R.S. 14:79.1 Criminal abandonment
- *R.S. 14:80 Carnal knowledge of a juvenile
- *R.S. 14:81 Indecent behavior with a juvenile
- *R.S. 14:81.1 Pornography involving juveniles
- *R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- *R.S. 14:82.1 Prostitution; persons under seventeen; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; sexual content prohibit
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- *R.S. 14:86 Enticing persons into prostitution
- *R.S. 14:89 Crime against nature
- *R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- *R.S. 14:93 Cruelty to juveniles
- *R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity
- R.S. 14:282 Operation of places of prostitution prohibited
- *R.S. 14:286 Sale of minor children
- R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
- R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; distribution
- R.S. 40:968(A) Prohibited acts--Schedule III; penalties; Manufacture distribution

- R.S. 40:969(A) Prohibited acts--Schedule IV; penalties; Manufacture; distribution
- R.S. 40:970(A) Prohibited acts--Schedule V; penalties; Manufacture; distribution

*Reinstatement will never be considered for crimes marked with an asterisk.

Weegie Peabody
Executive Director

0302#010

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelCNew Certification Structure for Educational Leadership (LAC 28:1.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. The New Certification Structure for Educational Leadership will consolidate under one certification area the current certifications in Elementary Principal, Secondary Principal, Supervisor of Instruction, Supervisor of Child Welfare and Attendance, and Parish or City School Superintendent. This action will require that, as recommended by the Blue Ribbon Commission, all colleges and universities redesign their graduate programs in Educational Leadership. These newly redesigned programs are scheduled to be implemented July 1, 2004. It is expected that based on this implementation date that the first program completers will graduate from these programs in Summer 2006. Therefore, it will be necessary to gradually phase out the four certification areas (Elementary Principal, Secondary Principal, Supervisor of Instruction, Supervisor of Child Welfare and Attendance, and Parish or City School Superintendent) currently in place over time beginning July 1, 2006.

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations
A. Bulletin 746**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:0000 (August 2002), LR 29:119 (February 2003).

Proposed New Certification Structure for Educational Leadership

Effective Date: July 1, 2003

Overarching Requirements	
<p>All graduate degree preparation programs, assessments, and continuing learning units shall be aligned with the following state and national standards:</p> <ul style="list-style-type: none"> • the <i>Standards for School Principals in Louisiana</i>; • the Interstate School Leaders Licensure Consortium (ISLLC) <i>Standards for School Leaders</i>; and • the Educational Leadership Constituent Council (ELCC) <i>Standards for Advanced Programs in Educational Leadership</i>, the standards used by the National Council for the Accreditation of Colleges of Teacher Evaluation (NCATE) for university program reviews. 	
Teacher Leader Endorsement (optional)	
<p>Teachers who hold a valid Type B or Level 2 or higher Louisiana teaching certificate may add a Teacher Leader Endorsement to their teaching certificate by completing a state-approved Teacher Leader Institute that:</p> <ul style="list-style-type: none"> ○ Requires, at minimum, the equivalent of six graduate hours (90 contact hours); ○ Includes a combination of face-to-face and field-based professional development activities which may include the use of a cohort approach; ○ Provides support from and monitoring by current outstanding administrators serving as mentors and/or facilitators; ○ Includes an electronic component (on-line and/or compressed video) to ensure each participant's access to key resources and to build a statewide network of qualified administrator candidates that could include the development of cohorts; and, ○ Requires the development and presentation of a culminating portfolio that provides evidence that knowledge gained and skills acquired are aligned with national and state leader standards. <p><u>Requirements for Renewal of the Teacher Leader Endorsement:</u></p> <p>Teacher Leader Endorsement requires completion of a minimum of 150 continuing learning units of professional development every five years that are consistent with the leader's Individual Professional Growth Plan (IPGP).</p>	
Certification Levels	
<p>All educational leaders will progress through two levels of educational leader certification. An additional level of certification (Superintendent) is required for employment as a local district superintendent.</p>	
<p style="text-align: center;">Educational Leader Certificate–Level 1</p> <p>All candidates for school and district educational leadership positions (e.g., assistant principal, principal, parish or city school supervisor of instruction, supervisor of child welfare and attendance, or comparable school or district leader positions) must meet the following requirements in order to receive an entry-level certificate in educational leadership.</p> <p>Candidates for Level 1 Educational Leader Certification shall meet the following criteria.</p> <ol style="list-style-type: none"> 1. Hold or be eligible to hold a valid Louisiana Type A or Level 3 Teaching Certificate. 2. Have completed a graduate degree preparation program in the area of educational leadership from or recognized by a regionally accredited institution of higher education. These programs must be aligned with: <ul style="list-style-type: none"> • the <i>Standards for School Principals in Louisiana</i>; • the Interstate School Leaders Licensure Consortium (ISLLC) <i>Standards for School Leaders</i>; and • the Educational Leadership Constituent Council (ELCC) <i>Standards for Advanced Programs in Educational Leadership</i>. 3. Earn a passing score on the <i>School Leaders Licensure Assessment (SLLA)</i> in accordance with state requirements. 4. Persons who have met the requirements of Items 1-3 above are eligible for a Level 1 Educational Leader Certificate. Upon employment as a school or district educational leader, an individual with Level 1 Educational Leader certificate must enroll in the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. 5. Any individual, with Level 1 Educational Leader certificate, employed as a school or district educational leader shall have three years to complete the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. Failure to fulfill this requirement within the three-year timeline will result in revocation of the Level 1 Educational Leader certificate. 	<p style="text-align: center;">Educational Leader–Level 1 (Alternative Path)</p> <p>Candidates for school and district educational leadership positions (e.g., assistant principal, principal, parish or city school supervisor of instruction, supervisor of child welfare and attendance, or comparable school or district leader positions) may meet the following requirements in order to receive an entry-level certificate in educational leadership as an alternative to the traditional Educational Leader Certificate Level 1.</p> <p>The alternative path to Level 1 Certification is for those persons who hold a Master's Degree in Education and are seeking to add an Educational Leader Certification.</p> <p><u>Candidates for the Alternative Path to Level 1 Educational Leader Certification shall meet the following criteria.</u></p> <ol style="list-style-type: none"> 1. Hold or be eligible to hold a valid Louisiana Type A or Level 3 Teaching Certificate. 2. Have previously completed a graduate degree program from a regionally accredited institution of higher education or a degree equivalent to a graduate degree recognized by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), Office of International Education Services. 3. Earn a passing score on the <i>School Leaders Licensure Assessment (SLLA)</i> in accordance with state requirements. 4. Persons who have met the requirements of Items 1-3 above are eligible for a Level 1 Educational Leader Certificate. Upon employment as a school or district educational leader, an individual with Level 1 Educational Leader certificate must enroll in the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. 5. Any individual, with Level 1 Educational Leader certificate, employed as a school or district educational leader shall have three years to complete the two-year Educational Leader Induction Program under the direction of the Louisiana Department of Education. Failure to fulfill this requirement within the three-year timeline will result in revocation of the Level 1 Educational Leader certificate.
Educational Leader Certificate Level 2	
<p>All candidates must meet the following requirements in order to receive a five-year renewable professional certificate in educational leadership.</p> <p><u>Candidates for initial Level 2 Educational Leader Certification shall meet the following criteria.</u></p> <ol style="list-style-type: none"> 1. Hold a valid Level 1 Educational Leader Certificate. 2. Complete the two-year induction program under the guidance of a mentor trained in accordance with standards set by the Louisiana Department of Education and outlined in Bulletin 741, <i>Louisiana Handbook for School Administrators</i>. The induction period begins upon the individual's first full-time administrative appointment (whether permanent or acting) as an assistant principal, principal, parish or city school supervisor of instruction, supervisor of child welfare and attendance, or comparable school or district leader position; and, is to be completed within a three year period. 3. Earn a passing score on the ISLLC <i>School Leader Portfolio Assessment</i>, in accordance with state requirements. <p><u>Requirement for Renewal of the Level 2 Educational Leader Certificate.</u></p> <p>Level 2 Educational Leaders must complete a minimum of 150 continuing learning units of professional development over a five-year time period that are consistent with the leader's Individual Professional Growth Plan (IPGP) and includes updating the educational leader portfolio to renew the certificate.</p>	

Educational Leader Certificate C Level 3 (Superintendent)

All candidates must meet the following requirements in order to receive a five-year Level 3 Educational Leader Certificate to become a Superintendent. The five-year certification period is activated with the candidate's first full-time appointment as Superintendent.

Candidates for initial Level 3 (Superintendent) Educational Leader Certification must meet the following criteria.

1. Hold a valid Louisiana Level 2 Educational Leader Certificate.
2. Have had 5 years of successful administrative or management experience in education at the level of principal or above.
3. Earn a passing score on the *School Superintendent Assessment (SSA)* in keeping with state requirements.

Requirement for Renewal of the Level 3 Educational Leader Certificate.

Level 3 Educational Leaders must complete a minimum of 150 continuing learning units of professional development over a five-year time period that are consistent with the leader's Individual Professional Growth Plan (IPGP) and includes updating the educational leader portfolio to renew the certificate.

Weegie Peabody
Executive Director

0302#008

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification
of School PersonnelCSuspension, Revocation, and
Reinstatement of Certificates for Criminal Offenses
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The Rule change includes language relative to specific criminal offenses which is consistent with the laws requiring background checks. In addition, the change outlines specific procedures for reinstatement of certificates, the required evidence of rehabilitation, and graduated time lines for convictions rendered at various times in the past.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825, 828 (June 2001), LR 27:1189 (August 2001), LR 27:1516 (September 2001), LR 27:1676, 1680 (October 2001), LR 27:2096, 2099 (December 2001), LR 28:273 (February 2002), LR 28:1727 (August 2002), LR 29:121 (February 2003).

Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1.C or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15.587.1.C and any felony offense whatsoever.

The term "teaching certificate" or "certificate" shall include any license, permit, or certificate issued by the

Certification and Higher Education section of the Department of Education.

The term "teacher" shall include any person holding any permanent, ancillary, or temporary teaching certificate.

The term "applicant" shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

The term "Board" refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purposes of suspension and/or revocation.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude suspension and/or revocation of a teaching certificate.

IV. When the department is notified that any teacher has been convicted of a specific crime:

A. Department staff shall attempt to contact the teacher to inform him/her that the department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

C. If the department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official board action.

D. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that a hearing will be conducted by the board to consider revocation. Such hearing will be limited to a determination of the individual's true

identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

E. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed as will all other steps in the process outlined in this policy.

V. Upon official action by the board, any teacher whose certificate has been revoked, shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for reinstatement of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, vacated, or set aside, such action may be communicated to the board through documentation from the court in which the conviction occurred. The board may receive such information and order immediate reinstatement of the teacher's certificate.

VII. Time Restrictions on Applications for Reinstatement:

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. Reinstatements of certificates shall not be considered for any final felony conviction until at least 3 years have elapsed from the date of the final conviction.

C. For other final convictions rendered 4 to 6 years prior to revocation, reinstatement will not be considered for at least 2 years from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

D. For other final convictions rendered 7 to 9 years prior to revocation, reinstatement will not be considered for at least 1 year from the date of revocation or voluntary forfeiture of the certificate, whichever is earlier.

E. For other final convictions rendered more than 9 years prior, a teacher may apply immediately for reinstatement.

VIII. Procedures for Reinstatement:

A. An applicant may apply to the board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions:

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal history background check that is clean and clear.

2. There has been successful completion of all conditions/requirements of parole and/or probation. The applicant must provide relevant documentation, such as, copies of court records, sentencing recommendations, and probation release forms. He/she must also provide written verification from the applicant's parole/probation officer that all requirements have been completed and/or met.

3. There is documented evidence of rehabilitation. The applicant is responsible for providing copies of every requested document (a, b, and c are required items, d and e are recommended items):

a. written approval for reinstatement from the local district attorney in which the conviction occurred;

b. written approval for reinstatement from the local judge from the jurisdiction in which the conviction occurred;

c. letter of support from the local Superintendent;

d. letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

e. other letters of support or written reports that verify the applicant's rehabilitation.

4. The applicant requests a reinstatement hearing.

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above.

C. The board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

D. If the board or its designees decide to conduct a reinstatement hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

E. The committee of the board shall make a recommendation to the full board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain revoked. board staff shall notify the applicant of the board's action.

IX. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate.

Attachment 1

The following crimes are reported under R.S.15:587.1: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous

elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.) Specifically:

- *R.S. 14:30 First degree murder
- *R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- *R.S. 14:41 Rape
- *R.S. 14:42 Aggravated rape
- *R.S. 14:42.1 Forcible rape
- *R.S. 14:43 Simple rape
- *R.S. 14:43.1 Sexual battery
- *R.S. 14:43.2 Aggravated sexual battery
- *R.S. 14:43.3 Oral sexual battery
- *R.S. 14:43.4 Aggravated oral sexual battery
- *R.S. 14:43.5 Intentional exposure to the AIDS virus
- *R.S. 14:44 Aggravated kidnapping
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- *R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- *R.S. 14:78 Incest
- *R.S. 14:79.1 Criminal abandonment
- *R.S. 14:80 Carnal knowledge of a juvenile
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- *R.S. 14:81.1 Pornography involving juveniles
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- R.S. 14:83.2 Promoting prostitution
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; sexual content prohibited
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- *R.S. 14:86 Enticing persons into prostitution
- *R.S. 14:89 Crime against nature
- *R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- *R.S. 14:93 Cruelty to juveniles
- *R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity
- R.S. 14:282 Operation of places of prostitution prohibited
- *R.S. 14:286 Sale of minor children
- R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
- R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; distribution
- R.S. 40:968(A) Prohibited acts; Schedule III; penalties; Manufacture; distribution
- R.S. 40:969(A) Prohibited acts; Schedule IV; penalties; Manufacture; distribution
- R.S. 40:970(A) Prohibited acts; Schedule V; penalties; Manufacture; distribution

*Reinstatement will never be considered for crimes marked with an asterisk.

Weegie Peabody
Executive Director

0302#009

RULE

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil Progression
(LAC 28:XXXIX.503, 505, and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education has amended Bulletin 1566, *Guidelines for Pupil*

Progression, referenced in LAC 28:I.907.A. The Rule changes eliminate the waiver for students with disabilities participating in on-level testing and change the name of out-of-level testing to LEAP Alternative Assessment-B (LAA-B). The criteria for placement in LAA-B remains the same as required for out-of-level testing. The Rule changes one of the accountability labels from "Proficient" to "Mastery" in order to meet the mandates of the federal No Child Left Behind legislation.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566C Guidelines for Pupil Progression

Chapter 5. Place Policies; State Requirements

§503. Regular Placement

A. - A.1.b.ii.(a)(iii). ...

(iv). Waiver for students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA). LEAP Alternate Assessment (LAA and LAA-B) Students with disabilities who participate in the LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B) shall have promotion decisions determined by the SBLC.

A.1.b.ii.(a)(v). - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003).

§505. Progression—Students Participating in LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B)

A. Students with disabilities who participate in the LEAP alternate assessment (LAA) or LEAP Alternate Assessment (LAA-B) shall have promotion decisions determined by the School Building Level Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 26:1433 (July 2000), LR 27:188 (February 2001), LR 27:1683 (October 2001), LR 29:123 (February 2003).

Chapter 13. Appendix B

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A. - A.3.b. ...

c. Students with disabilities who participate in LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B), are not eligible to attend the LEAP 21 summer remediation programs.

3.d. - 6.a. ...

i. The local school system (LEA) may override the State policy for students scoring at the Unsatisfactory level in English language arts or mathematics if the student scores at the Mastery or Advanced level in the other provided that:

(a). - (c). ...

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. LEAP Alternate Assessment (LAA and LAA-B)

(a). Students with disabilities who participate in the LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B) shall have promotion decisions determined by the SBLC.

A.6.b.i.(a).(i). - B.3.b. ...

c. Students with disabilities who participate in LEAP Alternate Assessment (LAA) or LEAP Alternate Assessment B (LAA-B) are not eligible to attend the LEAP 21 summer remediation programs.

d. LEAs are encouraged to offer remediation services to students who score at the *approaching basic* level.

4. - 8.a. ...

i. The local school system (LEA) may override the State policy for students scoring at the *unsatisfactory* level in English or mathematics if the student scores at the *mastery* or *advanced* level in the other provided that

ii. - iv. ...

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. ...

(a) LEAP Alternate Assessment (LAA and LAA-B)

(i). Students with disabilities who participate in the LEAP Alternate Assessment (LAA) or Alternate Assessment B (LAA-B) shall have promotion decisions determined by the SBLC.

8.b.i.(b). - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 27:1683 (October 2001), LR 28:1189 (June 2002), LR 29:123 (February 2003).

Weegie Peabody
Executive Director

0302#012

RULE

Board of Elementary and Secondary Education

Bulletin 1794C State Textbook Adoption Policy
and Procedure Manual
(LAC 28:XXXIII.305, 311, 503, 507, and 701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 1794, *State Textbook Adoption Policy and Procedure Manual*, referenced in LAC 28:I.919.A and LAC Part XXXIII. Bulletin 1794 is being revised to provide clarity regarding the state textbook adoption process. New and revised sections address the issues of local adoption, free items provided by publishers, contact and interaction between publisher representatives and local school employees, and publisher participation in the state textbook caravan.

Title 28 EDUCATION

Part XXXIII. Bulletin 1794C State Textbook Adoption Policy and Procedure Manual

§305. Textbooks and Materials of Instruction

A. - C. ...

1. Each school district shall make a formal adoption of textbooks within six months from the date of state-level approval by the State Board of Elementary and Secondary Education (SBESE). (Refer to Chapter 5, Local School System Responsibilities)

2. ...

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:992 (May 2000), LR 29:124 (February 2003).

§311. Invitation Circular Letter

A. - G ...

H. Any items designated as "free" by publishers must also be submitted on the appropriate "LT Submission" form(s). Publishers may modify their free offerings by providing a written explanation and a detailed listing of items to be added to their original submission to the Department of Education within 60 days of the original due date. Any additions or offers of free materials or services made to local school systems verbally or in writing that are not included on forms submitted to the department will be considered a violation and may cause the publisher to be disqualified.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:995 (May 2000); LR 29:124 (February 2003).

§503. Formal Adoption (see also Bulletin 741, 1.070.03)

A. School systems shall make a formal adoption of textbooks according to the state adoption cycle within six months from the date of formal approval by the State Board of Elementary and Secondary Education (SBESE).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:998; LR 29:124 (February 2003).

§507. Local Adoption Procedures

A. - E.3 ...

4. Prior to the completion of the State Textbook Caravan, any publisher initiated communication with local schools and school systems must be coordinated through the Parish/City Textbook Supervisor or the appropriate Curriculum Supervisor. Publishers may not initiate direct contacts with principals, teachers, or schools until after the completion of the State Textbook Caravan.

F. - F.6. ...

7. The "piloting" of new materials in any school or school system prior to official review by the State Textbook

Adoption Committee and final approval by the SBESE is prohibited. Publishers are not to offer school-wide copies or classroom sets of any item or material on a trial or pilot basis.

G. - G.2. ...

3. Local school system officials shall not solicit or accept any free material, item, or service other than those included on official bid submission forms and officially received by the Department of Education. (See Section 311.)

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:998 (May 2000), LR 29:124 (February 2003).

§701. Requirements for Publishers' Participation in State Textbook Adoption

A. - H. ...

I. Publishers shall not contact teachers, principals, or other school system employees for the purpose of providing meals, materials, or any other free items in conjunction with a preview or overview of new materials, at any time during the school year in which an adoption cycle begins or ends. Such awareness sessions or any similar activities are strictly prohibited.

J. Publishers who have materials recommended by the State Committee and approved by the SBESE shall participate in the State Textbook Caravan.

K. Publishers shall not offer or provide any free material, item, or service other than those included on official bid submission forms and properly forwarded to the Department of Education. (See Section 311.)

L. The "piloting" of new materials in any school or school system prior to official review by the State Textbook Adoption Committee and final approval by the SBESE is prohibited. Publishers are not to offer school-wide copies or classroom sets of any item or material on a trial or pilot basis.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1002, LR 29:125 (February 2003).

Weegie Peabody
Executive Director

0302#011

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.703, 1103, 1705, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended the Rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - D. ...

E. Students graduating in academic years 1996-97 and 1997-98 who qualified by reduction of the foreign language requirement must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year. High School Graduates of 1996-97 and 1997-98 who meet the requirements of §703.A.4.b or d or §803.A.4.b or d of these rules and who have not been discharged with an undesirable, bad conduct or dishonorable discharge must meet the foreign language requirement no later than one year after the date of separation from active duty.

F. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR:28:1760 (August 2002), LR 29:125 (February 2003).

Chapter 11. Rockefeller State Wildlife Scholarship §1103. Establishing Eligibility

A. - A.7. ...

8. a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12 and have taken the ACT or SAT and received test score results; or

b. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average;

c. if, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003).

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1705. Notification of Certified Students

A. - B. ...

C. If the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student: "Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. you must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and

2. you must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and

3. you must annually apply for federal student aid, if eligible for such aid, by the deadline required for consideration for state aid; and

4. you must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:644 (April 1998), amended LR 24:1913 (October 1998), repromulgated LR 27:1864 (November 2001), amended LR 29:126 (February 2003).

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.1.c. ...

4. Temporary Disability

a. - b.i. ...

ii. a written statement from a qualified professional of the existence of a temporary disability and a description of the injury, illness, or required surgery, including the dates of treatment, the treatment required, the prognosis, the length of the recovery period, the beginning and ending dates of the doctor's care, and opinions as to the impact of the disability on the student's ability to attend school; and

4.b.iii - 7.c. ...

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, guardian, dependent, sister or brother, step sibling, or grandparent dies.

8.b. - 11.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 29:126 (February 2003).

George Badge Eldredge
General Counsel

0302#063

RULE

**Office of the Governor
Real Estate Appraisers Board of Certification**

Appraiser Certification
(LAC 46:LXVII.10311 and 10313)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Real Estate Appraisers Board has repealed LAC 46:LXVII.Real Estate.Subpart 2.Appraisers, Chapter 103, §10311.D.9-11 and §10313.D.21-23. This will remove textbook authorship, real estate journal articles, and appraisal course instruction from the experience credit points which may be used to obtain state certification as a real estate appraiser.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Subpart 2. Appraisers

Chapter 103. Certification

§10311. Residential Certification Minimum Express

A. - D.8. ...

9. Repealed.

10. Repealed.

11. Repealed.

D.12. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003).

§10313. General Certification Experience

A. - .D.20. ...

21. Repealed.

22. Repealed.

23. Repealed.

Note: Repealed.

E. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999), amended by the Office of

the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003).

Julius C. Willie
Executive Director

0302#044

RULE

**Office of the Governor
Real Estate Commission**

Real Estate Names and/or Trade Names
(LAC 46:LXVII.2501)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII.Real Estate, Chapter 25, Section 2501. The amendments specify what names and/or trade names may be used by an individual licensee, partnership, firm or corporate broker in advertising and establishes advertising guidelines specific to salesperson and associate brokers.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 25. Advertising

§2501. Advertisements

A. - B. ...

C. All advertising of a licensed individual, partnership, firm, or corporate broker shall include their licensed business name, which for the purpose of these rules shall mean the name in which that individual, partnership, firm or corporation is on record with the commission as doing business as a real estate broker or, in the case of a trade name, that which is registered with the secretary of state and on record with the commission.

D. A salesperson or associate broker is prohibited from advertising under only his or her name.

E. All advertising by a salesperson or associate broker must be under the direct supervision of his or her sponsoring broker.

F. In all advertising, the salesperson or associate broker must include the name and telephone number of his or her broker as defined in this Section. The broker's name and telephone number must be conspicuous, discernible, and easily identifiable by the public.

G. If allowed by the sponsoring broker, the salesperson or associate broker may include in the advertisement:

1. the salesperson's or associate broker's personal logo or insignia, which cannot be construed as that of a company name;

2. the salesperson's or associate broker's contact information;

3. a group or team name as long as the name(s) of the salesperson(s) and/or associate broker(s) are included near the team name reference and cannot be construed as that of a company name; and

4. a slogan that may not be construed as that of a company name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:42 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:829 (April 2002), LR 29:127 (February 2003).

Julius C. Willie
Executive Director

0302#045

RULE

**Department of Health and Hospitals
Board of Practical Nursing Examiners**

Appointing Authority
(LAC 46:XLVII.303)

The Board of Practical Nurse Examiners hereby amends LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of this Rule change to Section 303.A.1, Additional Duties and Powers of the Board, is to provide for delegation of appointing authority, previously granted to the board's executive director by policy. This Rule has been in effect since October 24, 2002 when it was adopted as an Emergency Rule at a meeting of the board.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners

§303. Additional Duties and Powers of the Board

A. In accordance with the Louisiana Statutes, Title 37, Section 969, the board shall have all such powers and duties as written. In addition the board shall:

1. appoint an executive director and associate executive director who shall be professional nurses currently licensed in the state of Louisiana and who shall serve as the executive staff of the board. The executive director, or in her absence the associate executive director, serves as the appointing authority of the board;

2. - 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 26:2614 (November 2000), LR 28:2353 (November 2002), LR 29:127 (February 2003)

Claire Doody Glaviano
Executive Director

0302#014

RULE

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Licensure of Licensed Professional Counselors
and Licensed Marriage and Family Therapists
(LAC 46:LX.Chapters 1-47)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1122, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has repealed and adopted certain Rules with regard to licensing of licensed professional counselors and licensed marriage and family therapists.

This revision is necessitated by Act 1195 of 2001 which extended the board's regulatory authority to include licensure of marriage and family therapists.

Sections 101-2117 are revisions of the existing Board Rules relative to licensed professional counselors, to bring them into accord with Act 1195, in terms of board composition and duties, and related issues.

Sections 2701-4720 are all new provisions, and deal strictly with licensure and regulations of marriage and family therapists, including the "grandfathering" of certain therapists who meet statutory and regulatory requirements. These Sections were likewise implemented by Emergency Rule effective August 5, 2002, to allow the Board to meet statutory deadlines for completion of the "grandfathering" process.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors

Subpart 1. Licensed Professional Counselors

Chapter 1. General Provisions

§101. Statutory Authority

A. The Louisiana Licensed Professional Counselors Board of Examiners was initially created and empowered by Act 892 of the 1987 Legislature to provide regulation of the practice of mental health counseling and provide for the regulation of the use of the title "Licensed Professional Counselor" (R.S. 37:1102). Subsequently Act 1195 of 2001 empowered the Board to provide regulation of marriage and family therapy and the use of the title "Licensed Marriage and Family Therapist" (R.S.37:1102(B)). Therefore, the Professional Counselors Board of Examiners establishes the Rules and regulations herein pursuant to the authority granted to, and imposed upon said board under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13, R.S. 37:1101-1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003).

§103. Description of Organization

A. The Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Health and Hospitals, and consists of nine members, who shall be residents of the state of Louisiana. Each term shall be for four years. Seven

appointments to the board shall be made by the governor from a list of qualified candidates submitted by the executive board of the Louisiana Counseling Association. Two appointments to the board shall be made by the governor from a list of candidates submitted by the Louisiana Association of Marriage and Family Therapists. Each appointment by the governor shall be submitted to the Senate for confirmation. Board membership shall consist of three licensed professional counselors, three educators who are licensed professional counselors and whose function is the training of mental health counselors in accredited programs, two licensed marriage and family therapists, and one individual from the public at large. No board member shall serve more than two full consecutive terms. The professional membership of the board shall be licensed under this Chapter. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 13 of Title 37.

1. The licensed professional counselor board shall establish a Marriage and Family Therapy Advisory Committee, which shall consist of the two board members appointed by the governor from a list of names submitted by the Louisiana Association of Marriage and Family and one additional non-board member appointed by the governor from a list of names submitted by the Louisiana Association of Marriage and Family Therapy.

2. The function of the advisory committee shall be established by Rules and regulations developed by the advisory committee, promulgated by the board, and approved jointly by the House and Senate Health and Welfare Committee.

3. The functions and duties of the advisory board may include but are not limited to the following. Develop Rules and regulations in accordance with the Administrative Procedure Act as it may deem necessary to implement the provisions of this Chapter for promulgation and implementation by the board:

a. examine and qualify all applicants for licensure as marriage and family therapists and recommend to the board each successful applicant for licensure, attesting to his professional qualifications to be a licensed marriage and family therapist;

b. develop for the board application forms for licensure pursuant to this Chapter; and

c. maintain complete records of all meetings, proceedings, and hearings conducted by the advisory committee.

4. The non-board member shall serve a term of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003).

§105. Vacancies

A. A vacancy occurring in board membership for an unexpired term shall be filled for the remainder of the term by the governor, within 30 days, from a list of qualified candidates submitted by the Executive Board of the Louisiana Counseling Association. Unexpired terms shall be filled by appointment by the governor, within 30 days, from a list of qualified candidates prescribed in Section 1104 of R.S. 37:1101-1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:128 (February 2003).

§107. Reimbursement

A. Each board member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

§109. Financially Self-Sufficient

A. The board shall be financially self-sufficient. It shall receive no state funds through appropriation or otherwise and shall not expend any such state funds. No state funds shall be expended or committed to expenditure for the group benefits program or any other health insurance or employee benefit program, for any retirement system, for any salary, per diem payment, travel or expenses, office supplies and materials, rent, purchase of any of any product or service, or for any other purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

§111. Notification of Change

A. Every licensed professional counselor/counselor intern and every licensed marriage and family therapist/MFT intern shall immediately notify in writing the Licensed Professional Counselors Board of Examiners of any and all changes in name, address, and phone number. Failure to comply with this rule within 30 days of change will result in a fine as set forth in Chapter 9.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

Chapter 3. Board Meetings, Procedures, Records, Powers and Duties

§301. Officers

A. The board shall hold a meeting within 60 days after October 1, 1987 and elect from its membership a chairman, vice chairman, and secretary. The chairman shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 13 of Title 37 and the board. The chairman is authorized by the board to make day-to-day decisions regarding board activities to facilitate the responsiveness and effectiveness of the board. The vice chairman shall perform the duties of the chairman in case of absence or disability of the chairman. In the event the office of chairman becomes vacant, the vice chairman shall serve as chairman until a successor is named. In the absence of the chairman and vice chairman, the secretary will preside until the chairman or vice chairman is present. The secretary shall keep the minutes of board meetings and send said minutes to board members and the clerical secretary of the board before each regular meeting of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

§305. Board Staff

A. An executive director, who shall not be a member of the board, shall be employed, within the limits of the funds received by the board pursuant to R.S. 37:1106. The board shall be empowered to accept grants from foundations and institutions to carry on its functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

§307. Meetings

A. The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board. The board shall hold a meeting within 60 days after October 1, 1987, and semiannually thereafter. The chairperson may call meetings after consultation with board members or by a majority of members voting at a regular meeting. Reasonable notice of all board meetings will be given by posting the meeting place and time, seven days before the meeting, on the door of the office of the board and in two places in the building housing the office of the board. The board may examine, approve, revoke, suspend, and renew the license of applicants and shall review applications at least once a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

§309. Quorum

A. Five members of the board shall constitute a quorum of the board at any meeting or hearing for the transaction of business and may examine, approve, and renew the license of applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

§311. Procedures

A. The board shall adopt such Rules, regulations, and examination procedures as it may deem necessary to effect the provisions of Act 892 (Chapter 13, R.S. 37:1101-1122). The board shall be empowered to accept grants from foundations and institutions to carry on its functions. The board shall submit an annual report to the governor containing the financial and professional actions of the board during the past year. The board shall adopt a seal which shall be affixed to all licenses issued by the board. The board hereby adopts Robert's Rules of Order Revised as the basis of parliamentary decisions by the board except as otherwise provided by board Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:129 (February 2003).

§313. Code of Ethics

A. The board has adopted the Code of Ethics of the American Counseling Association for Licensed Professional Counselors as specified in R.S. 37:1105(D) and may adopt any revisions or additions deemed appropriate or necessary by the board. Applicable ethics requirements for Licensed Marriage and Family Therapists and MFT Interns are addressed at §4301 of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003).

§315. Records of Proceedings

A. The board shall keep a record of its proceedings including applicant examinations, a register of applicants for licenses, and a register of licensed professional counselors which shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003).

Chapter 5. License and Practice of Counseling

§501. License of Title and Practice

A. As stated in R.S. 37:1111(A), no person shall assume or use the title or designation "Licensed Professional Counselor" or engage in the practice of mental health counseling unless he has in his possession a valid license issued by the board under the authority of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003).

§503. Definitions for Licensed Professional Counselors

A. For purposes of this rule, the following definitions will apply.

Board The Louisiana Licensed Professional Counselors Board of Examiners.

Licensed Professional Counselor Any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

Mental Health Counseling Services Those acts and behaviors coming within the *practice of mental health counseling* as defined in this chapter, including diagnosis and treatment of conditions or disorders requiring mental health counseling as defined in R.S. 37:1103(4)(a). However, nothing in this chapter shall be construed to authorize any person licensed hereunder to administer or interpret tests in accordance with the provisions of R.S. 37:2352(5), except as provided by LAC 46:LXIII.1702.E of the Louisiana Administrative Code, or engage in the practice of psychology or to prescribe, either orally or in writing, distribute, dispense, or administer any medications.

Practice of Mental Health Counseling Rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but are not limited to:

a. **Mental Health Counseling** Assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

i. **Mental Health Counseling Practicum.** Licensure requires the completion of a mental health counseling practicum totaling 100 clock hours. The practicum includes:

(a) a minimum of 40 hours of direct counseling with individuals or groups;

(b) a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member;

(c) a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

ii. **Mental Health Counseling Internship.** Licensure requires the completion of a mental health counseling internship totaling 300 clock hours. The internship includes:

(a) a minimum of 120 hours of direct counseling with individuals or groups;

(b) a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an LPC working in conjunction with the faculty member;

(c) a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

b. **Consulting** Interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations.

c. **Referral Activities** The evaluation of data to identify problems and to determine the advisability of referral to other specialists.

d. **Research Activities** Reporting, designing, conducting, or consulting on research in counseling with human subjects.

e. **Appraisal**

i. use or administration of tests of language, educational and achievement tests, adaptive behavioral tests, and symptoms screening checklists or instruments, as well as

tests of abilities, interests, and aptitudes, for the purpose of diagnosing those conditions allowed within the scope of these statutes, defining counseling goals, planning and implementing interventions, and documenting clients progress as related to mental health counseling. Appraisal includes but is not necessarily limited to the following areas.

(a). *Abilities*—those normative-based individual and group administered instruments used to measure general mental ability vis -a-vis specific abilities.

(b). *Interests*—those normative-based individual and group administered instruments used to suggest educational and vocational adjustment, interpersonal relations, intrapersonal tendencies and interests, satisfaction from avocational pursuits, and other major phases of human development.

(c). *Aptitudes*—those normative-based individual and group administered instruments used to measure special ability related to a future task(s).

ii. qualified licensed professional counselors as well as other appropriately licensed or certified professionals may also administer or use test of language, educational and achievement, adaptive behavior tests, and symptom screening checklists or instruments. The administration and interpretation of these tests are not exclusively within the scope of this regulation.

iii. appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the Louisiana Administrative Code, Title 46, Part LX, Chapter 21. Code of Conduct for Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in Chapter 5. A licensed professional counselor who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test and measurements and individual differences. Formal training shall include a practicum and supervised practice with appraisal instruments.

f. *Graduate Degree*—the substance of which is professional mental health counseling in content shall be defined as a graduate degree from a regionally accredited university that shall conform to one of the criteria below:

i. a CACREP accredited counseling program;

ii. a counseling program incorporating the word "counseling" or counselor" in its title;

iii. a program incorporating a counseling-related term in its title (e.g. "marriage and family therapy"); or

iv. a program incorporating the eight content areas, a counseling practicum, and a counseling internship.

g. In addition, the above should not be construed to include degrees in disciplines licensed elsewhere by the State of Louisiana (e.g., social work, psychology) with the exception of counseling psychology and vocational rehabilitation counseling programs.

h. Other definitions specific to Licensed Marriage and Family Therapists and MFT Interns can be found in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:130 (February 2003).

Chapter 7. Requirements for Licensure of Licensed Professional Counselors

§701. General Provisions

A. The board shall license to practice all persons who present satisfactory evidence of qualifications as specified in these Rules and regulations of the board. Such licensure shall be signed by the chairman and vice chairman of the board under the seal of the board. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:131 (February 2003).

§703. Licensed Professional Counselors Licensing Requirements

A. The board shall issue a license to each Licensed Professional Counselor applicant who files an application upon a form designated by the board and in such a manner as the board prescribes, accompanied by such fee required by R.S. 37:1106 and who furnishes satisfactory evidence to the board that he:

1. is at least 21 years of age;
2. is of good moral character;
3. is a citizen of the United States or has legally declared his intentions of becoming such;
4. is a resident of the state of Louisiana or is in the act of establishing residency in the state of Louisiana;
5. is not in violation of any of the provisions of R.S. 37:1101-1122 and the Rules and regulations adopted herein;
6. can document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree, provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits;
7. has declared special competencies and demonstrated professional competence therein by passing a written and, at the discretion of the board, an oral examination as shall be prescribed by the board;
8. has received a graduate degree, the substance of which is professional mental health counseling in content from a regionally accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board and has accumulated at least 48 graduate semester hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling (as defined by Rules adopted by the board listed under Chapter 5), which shall not be interpreted to

exclude post-graduate course work in mental health counseling, as part of the degree plan containing 48 graduate hours including eight content areas, practicum and internship approved by the Licensed Professional Counselors (LPC) Board.

a. the following eight areas are required to have at least one semester course:

- i. counseling/theories of personality;
- ii. human growth and development;
- iii. abnormal behavior;
- iv. techniques of counseling;
- v. group dynamics, processes, and counseling;
- vi. lifestyle and career development;
- vii. appraisal of individuals;
- viii. ethics.

9. has provided to the board a Declaration of Practices and Procedures, with the content being subject to board review and approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:131 (February 2003).

§705. Supervised Experience for Counselor Interns

A. Supervision Requirements

1. Supervision is defined as assisting the counselor intern in developing expertise in methods of the professional mental health counseling practice and in developing self-appraisal and professional development strategies. Supervision must comply with standards as set by the board.

2. Pursuant to R.S. 37:1107(A), an applicant for license must document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board, provided that in no case the applicant has less than 2,000 hours of board-approved supervised experience within the aforementioned time limits. Only those applicants already receiving board-approved supervision prior to June 30, 1998 are exempt from the aforementioned time allowance.

a.i. Based on the above, the board has broken down the required 3,000 hours of counseling experience in the following manner:

(a). a minimum of 1,900 hours (up to 2,900 hours) in direct client contact, individual or group counseling;

(b). a maximum of 1,000 hours in additional client contact, counseling related activities (i.e. case notes, staffing, case consultation, or testing/assessment of clients) or education at the graduate level in the field of mental health as defined above;

(c). a minimum of 100 hours of face-to-face supervision by a board approved supervisor.

ii. An applicant may utilize supervised hours earned in post-master's degree courses in counseling or in a

doctoral degree program in counseling toward the required hours of supervised experience in addition to exercising the option of substituting 30 graduate semester hours earned beyond the master's degree for 500 hours of supervised experience, as long as supervised experience, practicum, or internship courses are not included in the 30 graduate semester hours that are used to substitute for 500 hours of supervised experience. In no case, may the applicant have less than 2,000 hours of supervised experience.

b. The board recommends one hour of supervision for every 20 hours of direct client contact as outlined in Subclause (a). Supervision may not take place via mail or telephone. Telephone or mail contacts with supervisor may be counted under Subclause (b) (i.e., consultation), however, it cannot be counted as face-to-face supervision as defined in Subclause (c).

c. To be eligible for supervision as a counselor intern, the applicant must provide proof of completion of a supervised practicum and internship as listed in §503, Definitions, and each of the following eight content areas. In order for a course to fulfill a content area requirement, it must include in a substantial manner, the areas in the description for the content areas.

i. Counseling/Theories of Personality. Description: counseling theories including both individual and systems perspectives; research and factors considered in applications of counseling theories; or theories of personality including major theories of personality.

ii. Human Growth and Development. Description: the nature and needs of individuals at developmental levels; theories of individual and family development and transitions across the life-span; theories of learning and personality development; human behavior including an understanding of developmental crises, disability, addictive behavior, psychopathology, and environmental factors as they affect both normal and abnormal behavior; strategies for facilitating development over the lifespan.

iii. Abnormal Behavior. Description: emotional and mental disorders experienced by persons of all ages; characteristics of disorders; common nosologies of emotional and mental disorders utilized within the U.S. health care system; the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, as published by the American Psychiatric Association; preferred treatment approaches for disorders based on research; common medications used by psychiatrists to treat disorders; working with other health care and mental health care professionals in treating individuals with emotional and mental disorders;

iv. Techniques of Counseling. Description: basic interviewing, assessment, and counseling skills; counselor characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and nonverbal behaviors and personal characteristics, orientations, and skills; client characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and nonverbal behaviors and personal characteristics, traits, capabilities, and life circumstances;

v. Group Dynamics, Processes, and Counseling. Description: principles of group dynamics including group process components, developmental stage theories, and group members' roles and behaviors; group leadership styles

and approaches including characteristics of various types of group leaders and leadership styles; theories of group counseling including commonalities, distinguishing characteristics, and pertinent research and literature; group counseling methods including group counselor orientations and behaviors, ethical standards, appropriate selection criteria and methods, and methods of evaluation of effectiveness; approaches used for other types of group work, including task groups, prevention groups, support groups, and therapy groups.

vi. Lifestyle and Career Development. Description: career development theories and decision-making models; career, a vocational, educational, and labor market information resources, visual and print media, and computer-based career information systems; career development program planning, organization, implementation, administration, and evaluation; interrelationships among work, family, and other life roles and factors including multicultural and gender issues as related to career development; career and educational placement, follow-up and evaluation; assessment instruments and techniques relevant to career planning and decision-making; computer based career development applications and strategies, including computer-assisted guidance systems; career counseling processes, techniques and resources including those applicable to specific populations.

vii. Appraisal of Individuals. Description: theoretical and historical bases for assessment techniques; validity including evidence for establishing content, construct, and empirical validity; reliability including methods of establishing stability, internal and equivalence reliability; appraisal methods including environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods; psychometric statistics including types of assessment scores, measures of central tendency, indices of variability, standard errors, and correlations; age, gender, ethnicity, language, disability, and culture factors related to the assessment and evaluation of individuals and groups; strategies for selecting, administering, interpreting, and using assessment and evaluation instruments and techniques in counseling.

viii. Ethics. Description: ethical standards of the American Counseling Association, state counselor licensure boards, and national counselor certifying agencies; ethical and legal issues and their applications to various professional activities; history of the helping professions including significant factors and events; professional roles and functions of counselors including similarities and differences with other mental health professionals; professional organizations, primarily the American Counseling Association, its divisions, branches, and affiliates, including membership benefits, activities, services to members, and current emphases, professional preparation standards, their evolution, and current applications; professional credentialing including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues; public policy processes including the role of the professional counselor in advocating on behalf of the profession and its clientele.

d. If a counselor intern commences supervision prior to August 15, 1996 pursuant to §705.A.2.c above, the counselor intern must complete all of the eight content areas pursuant to R.S.37:1107(B), in order to be eligible for licensure upon completion of the supervised internship.

3. Acceptable modes for supervision of direct clinical contact are the following.

a. Individual Supervision. The supervisory session is conducted by an approved supervisor with one counselor intern present.

b. Group Supervision. The supervisory session is conducted by an approved supervisor with no more than 10 counselor interns present.

4. At least 100 hours of the counselor intern's direct clinical contact with clients must be supervised by an approved supervisor or supervisors, as defined below.

a. At least 50 of these 100 hours must be individual supervision as defined above. The remaining 50 hours of these 100 hours may be either individual supervision or group supervision as defined above.

b. A supervisor may not supervise more than 10 counselor interns at any given time.

5. Supervisors of, counselor interns, as defined in these Rules, have the responsibility of assisting counselor interns in increasing their skills as a mental health professional. Supervisors, as defined in these Rules, have no control, oversight, or professional responsibility for the services of counselor interns whom they are supervising, unless a supervisor also serves as the administrative supervisor of a counselor interns in the setting in which the counselor intern is employed or contracted or is rendering counseling services on a volunteer basis. The control, oversight, and professional responsibility for counselor interns rests with the counselor intern's administrative supervisor in the setting in which they are employed or contracted or are rendering counseling services on a volunteer basis. In obtaining permission for outside supervision, counselor interns must notify their administrative supervisor of the identity of their supervisor for the purpose of gaining the supervised experience for licensure and the nature of the supervisory activities, including any observations or taping that occurs with clients, after obtaining the client's permission, in the setting.

6. The process of supervision must encompass multiple strategies of supervision, including regularly scheduled live observation of counseling sessions (where possible) and review of audiotapes and/or videotapes of counseling sessions. The process may also include discussion of the counselor intern's self-reports, microtraining, interpersonal process recall, modeling, role-playing, and other supervisory techniques.

7. The supervisor must provide nurturance and support to the counselor intern, explaining the relationship of theory to practice, suggesting specific actions, assisting the counselor intern in exploring various models for practice, and challenging discrepancies in the counselor intern's practice.

8. The supervisor must ensure the counselor intern's familiarity with important literature in the field of counseling.

9. The supervisor must provide training appropriate to the counselor intern's intended area of expertise and practice.

10. The supervisor must model effective professional counseling practice.

11. The supervisor must ensure that the mental health counseling and the supervision of the mental health counseling is completed in an appropriate professional setting.

12. The counselor intern must have received a letter of supervision approval from the board; and

13. The professional setting cannot include private practice in which the counselor intern operates, manages or has an ownership interest in the private practice, unless the counselor intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

14. Supervisors may employ counselor interns in their private practice setting. The supervisor may bill clients for services rendered by the counselor intern, however, under no circumstances can the counselor intern bill clients directly for services rendered by him/herself.

15. The supervisor must certify to the board that the counselor intern has successfully complied with all requirements for supervised counseling experience.

B. Qualifications of a Supervisor of counselor interns

1. Those individuals who may provide supervision to counselor interns must meet the following requirements:

a. **Licensure Requirements.** The supervisor must hold a Louisiana license as a Licensed Professional Counselor.

b. **Counseling Practice.** The supervisor must have been practicing mental health counseling in their setting (i.e., school, agency, private practice) for at least five years. Two of the five years experience must be post licensing experience.

c. **Training in Supervision.** Supervisors must have successfully completed either i or ii below.

i. **Graduate-Level Academic Training.** At least one graduate-level academic course in counseling supervision. The course must have included at least 45 clock hours (equivalent to a three credit hour semester course) of supervision training.

ii. **Professional Training.** A board approved professional training program in supervision. The training program must be a minimum of 25 direct clock hours with the trainers and meet presentation standards established by the board.

2. A supervisor may not be a relative of the counselor intern. Relative of the counselor intern is defined as spouse, parent, child, sibling of the whole- or half-blood, grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship.

3. No person shall serve as a supervisor if his/her license is expired or subject to terms of probation, suspension, or revocation.

C. Responsibility of Applicant under Supervision

1. During the period of supervised counseling experience an applicant will identify him/herself as a counselor intern.

2. Each counselor intern must provide his/her clients with a disclosure statement (as outlined in the Appendix of the LPC Code of Conduct) that includes:

a. his/her training status; and

b. the name of his/her supervisor for licensure purposes.

3. Counselor interns must comply with all laws and regulations relating to the practice of mental health counseling (R.S. 37:1101- 1122).

4. Counselor interns may not initiate a private practice during their period of supervised counseling experience. Counselor interns who are employed within their supervisors' private practice setting cannot, under any circumstances, bill clients directly for services they render, unless the counselor intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

5. Upon completion of the required number of hours of supervised counseling experience, the counselor intern needs to submit an application for licensure. Any individual who does not apply for licensure within three months after completing the required number of hours of supervised counseling experience cannot continue to practice professional mental health counseling.

6. Supervision hours do not begin accruing until after the application for supervision has been filed and approved by the LPC Board.

D. Registration of Supervised Experience

1. All proposed supervision arrangements beginning on or after January 1, 1993 must be approved by the board prior to the starting date of the supervised experience.

a. The counselor intern will:

i. along with his/her supervisor provide the board with a written proposal outlining with as much specificity as possible the nature of the counseling duties to be performed by the counselor intern and the nature of the supervision;

ii. submit this written proposal on forms provided by the board at least 60 days prior to the proposed starting date of the supervision;

iii. submit along with the written proposal the appropriate fee determined by the board.

2. Supervised experience rendered by the counselor intern in an exempt setting needs to meet the requirements in this rule if that supervised experience is to meet the requirements for licensure as set forth by R.S. 37:1107(A).

3. Following the board's review, the counselor intern will be informed by letter either that the proposed supervision arrangement has been approved or that it has been rejected. Any rejection letter will outline, with as much specificity as practicable, the reasons for rejection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:132 (February 2003).

Chapter 8. Renewal of Licensed Professional Counselor Licenses

§801. Renewal

A. A licensed professional counselor shall renew his/her license every two years in the month of June by meeting the requirement that 40 clock hours of continuing education be obtained prior to each renewal date every two years in an area of professional mental health counseling as approved by the board and by paying a renewal fee. The licensee should submit a declaration statement only if there has been a change in area of expertise, with the content being subject to

board review and approval. The board, at its discretion, may require the licensee to present satisfactory evidence supporting any changes in areas of expertise noted in the declaration statement. The chairman shall issue a document renewing the license for a term of two years. The license of any mental health counselor who fails to have this license renewed every two years during the month of June shall lapse; however, the failure to renew said license shall not deprive said counselor the right of renewal thereafter. A lapsed license may be renewed within a period of two years after the expired renewal date upon payment of all fees in arrears and presentation of evidence of completion of the continuing education requirement. Application for renewal after two years from the date of expiration will not be considered for renewal; the individual must apply under the current licensure guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:134 (February 2003).

§803. Continuing Education Requirements for Licensed Professional Counselors

A. General Guidelines

1. An LPC licensee must accrue 40 clock hours of continuing education by every renewal period every two years, with the exception that a licensee renewing a license which expires on June 30, 2000 must accrue 25 clock hours of continuing education.

2. One continuing education hour (CEH) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. CEHs accrued beyond the required 40 hours may not be applied toward the next renewal period. Renewal periods run from July 1 to June 30, every two years.

5. The licensee is responsible for keeping a personal record of his/her CEHs until official notification of renewal is received. Do not forward documentation of CEHs to the Board office as they are accrued.

6. At the time of renewal 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. If you are one of the 10 percent chosen, you will be requested by letter to submit documentation of your CEHs.

B. Approved Continuing Education for Licensed Professional Counselors

1. Continuing education requirements are meant to encourage personal and professional development throughout the LPC's career. For this reason a wide range of options are offered to accommodate the diversity of counselors' training, experience and geographic locations.

2. An LPC may obtain the 40 CEHs through one or more of the options listed below.

a. Continuing Education Approved by Other Organizations. Continuing education that is approved by either the American Counseling Association (ACA), its divisions, regions and state branches, Louisiana Counseling Association (LCA), or the National Board of Certified Counselors (NBCC) will be accepted by the Board of Examiners. One may contact these associations to find out which organizations, groups or individuals are approved providers. One may receive one clock hour of continuing

education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for: business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification can consist of copies of certificates of attendance.

b. Continuing Education Not Preapproved. For those organizations, groups or individuals that do not carry provider status by one of the above associations, the continuing education hours will be subject to approval by the Board of Examiners at the time of renewal. The Board will not preapprove any type of continuing education. The continuing education must be in one of the twelve approved content areas listed in §803.C, and be given by a qualified presenter. A qualified presenter is considered to be someone at the master's level or above and trained in the mental health field or related services. One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be granted for: business/governance meetings; breaks; social activities including meal functions, except for actual time of a content speaker. Credit cannot be given for an approved session to persons who leave early from that session. Verification for workshops, seminars, or conventions can consist of copies of certificates of attendance. Typically one Continuing Education Unit (CEU) is equivalent to 10 clock hours.

c. Coursework. CEHs may also be gained by taking coursework (undergraduate or graduate) from a regionally accredited institution in one of the 12 approved content areas for continuing education listed in §803.C. One may take a course for credit or audit a course. In a college or university program, one semester hour is equivalent to 15 clock hours and one quarter hour is equivalent to 10 clock hours. Therefore, 45 CEHs will be given for a three hour university course completed at a regionally accredited university. Verification for coursework can consist of either copies of transcripts for coursework taken for credit or letter of attestation from instructor for courses audited.

d. Home Study. The LCA journal, video presentations and approved teleconferences are all approved home study options. Each option must carry a provider number from either NBCC, LCA or other board approved mental health organizations. Each activity will specify the number of CEHs that will be granted upon completion. Verification consists of a certificate issued by NBCC, LCA or certificates from other professional mental health organizations that will be reviewed by the Board.

e. Presentations. Presenters may get credit for original presentations at a rate of five clock hours per one hour presentation. Presenters must meet the qualifications stated in Subparagraph b. above. The presentation must be to the professional community; not to the lay public or a classroom presentation. The presentation must also be in one of the twelve approved content areas listed in §803.C. Verification of your presentation consists of obtaining a letter from the workshop/convention coordinator stating the topic, date, and number of hours of presentation.

f. Publishing. Authors may receive five clock hours per article or chapter in a book. The article must be published in a professional refereed journal. Both articles

and chapters must be in one of the 12 approved content areas listed in §803.C. Verification will consist of either a reprint of the article/chapter, or a copy of the article/chapter, cover of the book/journal and page listing the editor or publisher.

g. Counseling (10 hours maximum per renewal period). One may receive one clock hour of continuing education per counseling hour as a client. To qualify, one must be a client receiving services from a licensed mental health professional having qualifications equal to or exceeding those currently required of LPC's. Consultation and supervision hours do not qualify. Verification will consist of a letter from the counseling mental health professional verifying client therapy hours.

h. Research. One may receive one clock hour of continuing education per hour of planning or conduct of, or participation in, counseling or counseling-related research. To qualify, this activity must constitute an original and substantive educational experience for the learner. Verification will consist of a letter from the faculty member or researcher.

i. Peer Supervision (10 Hour maximum per renewal period). One may receive one clock hour of continuing education per hours of performing peer supervision activities. For example, case work consultation.

C. Approved Content Areas. Continuing Education Hours must be in one of the following 12 content areas.

1. Counseling TheoryCincludes a study of basic theories, principles and techniques of counseling and their application in professional settings.

2. Human Growth and DevelopmentCincludes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory and learning theory within appropriate cultural contexts.

3. Social and Cultural FoundationsCincludes studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles.

4. The Helping RelationshipCincludes studies that provide a broad understanding of philosophic bases of helping processes, counseling theories and their applications, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation of client or consultee change.

5. Group Dynamics, Processing and CounselingCincludes studies that provide a broad understanding of group development, dynamics, and counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches.

6. Lifestyle and Career DevelopmentCincludes studies that provide a broad understanding of career development theories; occupational and educational information sources and systems; career and leisure counseling, guidance, and education; lifestyle and career decision-making; career development program planning and resources; and effectiveness evaluation.

7. Appraisal of IndividualsCincludes studies that provide a broad understanding of group and individual educational and psychometric theories and approaches to appraisal, data and information gathering methods, validity

and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes.

8. Research and EvaluationCincludes studies that provide a broad understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, publication of research information, and ethical and legal considerations associated with the conduct of research.

9. Professional OrientationCincludes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, professional credentialing and management of private practice and agency settings.

10. Marriage and FamilyCincludes studies that provide a broad understanding of marriage and family theories and approaches to counseling with families and couples. This includes appraisal of family and couples systems and the application of these to counseling families and/or couples.

11. Chemical DependencyCincludes studies that provide a broad understanding of chemical dependency issues, theories, and strategies to be applied in the helping relationship for chemical dependency counseling.

12. SupervisionCincludes studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised setting.

D. Types of Documentation Needed for Verification

1. Copy of certificate of attendance for workshops, seminars, or conventions.

2. Copy of transcript for coursework taken for credit/letter of attendance from instructor for courses audited.

3. Home Study verification form or certificate issued by LCA/NBCC.

4. Letter from workshop/convention coordinator verifying presentations.

5. Copy of article, cover and editorial board page for publications.

6. Letter from counseling mental health professional verifying number of hours in counseling as a client.

7. Letter from the faculty member or researcher verifying number of hours in research.

8. Letter or certificate from the LPC Board of Examiners, or from the board-approved counseling service organization, verifying number of hours of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:135 (February 2003).

Chapter 9. Fees

§901. General

A. The board shall collect the following fees stated in R.S. 37:1106.

1. Application, license and seal	\$200
2. Privileging review for appraisal and other specialty areas	\$100
3. Registration of Supervision	\$100
4. Renewal of license	\$150
5. Late fee for renewal	\$ 50
6. Reissue of license duplicate	\$ 25

7. Name change on records	\$ 25
8. Copy of LPC file	\$ 25
9. Copy of any documents	cost incurred
10. Marriage and Family Therapy Examination Fee	\$100

B The late fee will be incurred the day after a licensee's designated renewal deadline at 4 p.m. (no grace period). No part of any fee shall be refundable under any conditions. All fees for licensing must be paid to the board by certified check or money order. The renewal shall be deemed timely when:

1. the renewal is delivered on or before the due date; or
2. the renewal is mailed on or before the due date. If the renewal is received by mail on the first working day following the due date, there shall be a rebuttable presumption that it was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purpose of this Section, "by mail" applies only to the United States Postal Service.

C. The board may assess and collect fines in an amount not to exceed \$500 for violations of Chapter 9 and Rules promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:136 (February 2003).

§903. Deposit and Use of Fees and Funds

A. All fees collected and all gifts or grants shall be deposited and credited to the account of the board in a licensed financial institution of the board's choosing. The funds of the board may be used for printing, travel expenses of the board, and for other necessary expenses as are essential to carrying out of the provisions of R.S. 37:1101-1122. Expenses shall be paid under the written direction of the chairman of the board in accordance with procedures established by the Division of Administration. Any surplus at the end of the fiscal year shall be retained by the board for future expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:137 (February 2003).

Chapter 11. Reciprocity In LPC Licensing

§1101. States, Territories, and Commonwealths

A. Upon application accompanied by a fee and without written or oral examination, as stated in R.S.37:1109, the board may issue an LPC license to any person who furnished upon a form and in such manner as the board prescribes, evidence satisfactory to the board that he is licensed, certified, or registered as a professional counselor by another state, territorial possession of the United States, District of Columbia, or Commonwealth of Puerto Rico if the requirements for such licensure, certification, or registration are substantially equivalent to those of R.S. 37:1101-1122.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional

Counselors, LR 14:84 (February, 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 22:103 (February 1996), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:137 (February 2003).

Chapter 13. Disciplinary Proceedings for Licensed Professional Counselors

§1301. Causes for Administrative Action

A. The Board, after due notice and hearing as set forth herein and the Louisiana Administrative Procedures Act, R.S.49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a Licensed Professional Counselor on a finding that the person has violated the Louisiana Mental Health Counselor Licensing Act, any of the Rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the Licensed Professional Counselor or applicant for licensure. Sometimes hereinafter in this Chapter, where the context allows a Licensed Professional Counselor or applicant for licensure may be referred to as "person".

B. The Board shall also deny, revoke or suspend any license issued or applied for, or otherwise discipline a Licensed Professional Counselor on a finding that such person has violated any other applicable state law which themselves requires denial, revocation, or suspension of the license of such Licensed Professional Counselor or applicant. Such statutes include, but are not limited to R.S.37:2951 et seq. (nonpayment of certain student loans), and R.S.37:2952 et seq. (nonpayment of child support).

C. In addition to the Code of Conduct adopted by the LPC Board as Chapter 21, §2101-2117, the following actions or inactions by a Licensed Professional Counselor shall also be considered ethical violations by a Licensed Professional Counselor which may allow denial revocation, or suspension of Licensed Professional Counselor's license.

1. Failure to report suspected child abuse or neglect (R.S. 14:403 et seq. and Children's Code Article 609 et seq.)
2. Failure to report suspected elder abuse or neglect (R.S. 14:403.2 et seq.)
3. Failure to maintain patient records required by law (R.S. 40:1299.96 et seq.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:137 (February 2003).

§1303. Disciplinary Process and Procedures

A. The purpose of the following Rules and regulations is to supplement and effectuate the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These Rules and regulations are not intended to amend or repeal the provisions of the Administrative Procedure Act, and to the extent any of these Rules and regulations are in conflict therewith, the provisions of the Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict Rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations of the board, the Code of Ethics of the American Counseling Association, or prior Final Decisions and/or Consent Orders involving the licensed professional counselor or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR:25:259 (February 1999), amended LR 29:137 (February 2003).

§1305. Initiation of Complaints

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential to the Ad Hoc Committee for Disciplinary Affairs of the board and shall be sent to the board office. The Ad Hoc Committee for Disciplinary Affairs of the board shall, during an executive session of the board, convey the complaint to the board members. The board members by a vote of four of the seven members shall agree to investigate the charges or deny the charges. If a denial, the chairperson of the board shall request the Ad Hoc Committee for Disciplinary Affairs to prepare the letters of denial for his signature. If the board agrees to investigate, the board shall request the Ad Hoc Committee for Disciplinary Affairs to notify the person that allegations have been made that he may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. A response is to be made to the Ad Hoc Committee for Disciplinary Affairs of the board at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate this industry, the board through its Ad Hoc Committee on Disciplinary Affairs, may conduct investigations into alleged violations by a licensed professional counselor or applicant of this Chapter or Rules and regulations promulgated pursuant thereto, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the Rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. The confidential or privileged records of a patient or client which are subpoenaed are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:138 (February 2003).

§1307. Informal Disposition of Complaints

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For complaints less serious, the Ad Hoc Committee for Disciplinary Affairs of the board may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The Ad Hoc Committee for Disciplinary Affairs of the board may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing. Board members may not be involved in informal conferences.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The nature of the offense alleged and the evidence before the board must be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:138 (February 2003).

§1309. Formal Hearing

A. The board has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license to practice as a licensed professional counselor or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;
 2. the right of notice;
 3. a statement of what accusations have been made;
 4. the right to present evidence and to cross-examine;
- and
5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The board received a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations of the board, or the Code of Ethics of the American Counseling Association. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The complaint is investigated by the board's agent or attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member may communicate with any party to a proceeding or his representative concerning any issue of fact or law involved in that proceeding.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the board's correspondence concerning the complaint;
- iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary;
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A Notice of Hearing is issued pursuant to R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations promulgated thereto, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

5.a. At least 20 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person in absentia, in the event that certified mail at the last known address is unsuccessful.

b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to 10 days prior to the date set for the hearing.

c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the board chair and may only be granted for compelling reasons.

7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

- i. a subpoena requiring a person to appear and give testimony; and
- ii. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours prior to the hearing.

8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by the requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows.

a. The board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take.

b. The person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The board's representative presents the case against the person.

d. The person, or his attorney, cross-examines.

e. The person presents evidence.

f. The board's representative cross-examines.

g. The board's representative rebuts the person's evidence.

h. Both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the record of the proceeding.

11.a. The record of the hearing shall include:

- i. all papers filed and served in the proceeding;

- ii. all documents and/or other materials accepted as evidence at the hearing;
- iii. statements of matters officially noticed;
- iv. notices required by the statutes or Rules; including notice of hearing;
- v. affidavits of service or receipts for mailing or process or other evidence of service;
- vi. stipulations, settlement agreements or consent orders, if any;
- vii. records of matters agreed upon at a prehearing conference;
- viii. reports filed by the hearing officer, if one is used;
- ix. orders of the board and its final decision;
- x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
- xi. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

b. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

12.a. The decision of the board shall be reached according to the following process:

- i. determine the facts at issue on the basis of the evidence submitted at the hearing;
- ii. determine whether the facts in the case support the charges brought against the person; and
- iii. determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or Rules and regulations of the board.

b. Deliberation

- i. The board will deliberate in closed session;
- ii. the board will vote on each charge as to whether the charge has been supported by the evidence (the standard will be "preponderance of the evidence");
- iii. after considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor or applicant for licensure; and
- iv. the board by affirmative vote of a majority of those members voting, shall be needed to withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of this Chapter or otherwise discipline a licensed professional counselor or applicant.

c. Sanctions against the person who is party to the proceeding are based upon findings of fact and conclusion of law determined as a result of the hearing. The party is notified by mail of the final decision of the board.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgment in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

14.a. The board may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within 10 days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following:

- i. the board's decision is clearly contrary to the law and evidence;
- ii. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;
- iii. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or
- iv. it would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:138 (February 2003).

§1311. Consent Order

A. An order involving some type of disciplinary action may be made by the Board with the consent of the person. A consent order requires formal consent of four of seven members of the board. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. The consent order is issued by the board to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:140 (February 2003).

§1313. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:140 (February 2003).

§1315. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of

the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the withholding, denial, revocation or suspension of his license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:140 (February 2003).

§1317. Judicial Review of Adjudication

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within 30 days after the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

§1319. Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Administrative Procedure Act, R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

§1321. Reinstatement of Suspended or Revoked License

A. The board is authorized to suspend the license of a licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

§1323. Declaratory Statements

A. The board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101 et seq., the Rules and regulations promulgated by the board and/or the Code of Ethics of the American Counseling Association.

1. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

a. the name and address of the petitioner;
b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and

c. a concise statement of the manner in which the petitioner is aggrieved by the statute, Rules and regulations, or provision of the Code of Ethics by its potential application to him in which he is uncertain of its effect.

2. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

§1325. Injunction

A. The board may, through the attorney general of the state of Louisiana, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by this Chapter, any Rules and regulations adopted by the board, and any codes of ethics adopted by the board.

B. If it is established that the defendant has been or is committing an act in violation of this Chapter or of any Rules or regulations adopted pursuant to this Chapter, including any codes of ethics adopted by the board, the court, or any judge thereof, shall enter a decree enjoining said defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of this Section, this court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Chapter.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

Chapter 15. Privileged Communication for Licensed Professional Counselors

§1501. Privileged Communications with Clients

A. The confidential relations and communications between a licensed professional counselor and client are placed upon the same basis as those provided by statute between an attorney and client. Nothing in these Rules shall be construed to require that any such privileged communication be disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

§1503. Privileged Communication between Health Care Provider and Patient

A. R.S. 13:3734(A)(1), states that "health care provider" means a hospital, as defined in R.S. 40:2102, hereof, and means a person, corporation, facility, or institution licensed by the state to provide health care or professional services as

a physician, hospital, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, psychologist, or licensed professional counselor and an officer, employee, or agent thereof acting in the course and scope of his employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:141 (February 2003).

Chapter 17. Exclusions for Licensed Professional Counselors

§1701. Scope

A. The following persons and their activities are exempted from the licensing requirements of R.S. 37:1101-1122 and these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:142 (February 2003).

§1703. Exemptions

A. A certified school counselor who meets the standards prescribed by the State Department of Education and the board of Elementary and Secondary Education, while practicing school counseling within the scope of his employment by a board of education or by a private school. Nothing herein shall be construed to allow such persons to render mental health counseling services to the public unless they have also been licensed under the provisions of R.S.37:1107

B. Any nonresident temporarily employed in this state to render mental health counseling services for not more than 30 days a year, who meets the requirements for licensure in R.S. 37:1107 or who holds a valid license and certificate issued under the authority of the laws of another state.

C. Any student in an accredited education institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a professional mental health counselor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

D. Any persons licensed, certified, or registered under any other provision of the state law, as long as the services rendered are consistent with their laws, professional training, and code of ethics, provided they do not represent themselves as licensed professional counselors or mental health counselors, unless they have also been licensed under the provisions of R.S.37:1107.

E. Any priest, rabbi, Christian Science practitioner, or minister of the gospel of any religious denomination, provided they are practicing within the employment of their church or religious affiliated institution and they do not represent themselves as licensed professional counselors or mental health counselors unless they have also been licensed under the provisions of R.S.37:1107.

F. Any person with a master's degree in counseling while practicing mental health counseling under the board approved supervision of a licensed professional counselor. The supervisee must use the title "counselor intern" and shall not represent himself to the public as a licensed professional counselor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:142 (February 2003).

Chapter 21. Code of Conduct for Licensed Professional Counselors

§2101. Preamble

A. The Louisiana Licensed Professional Board of Examiners is dedicated to the enhancement of the worth, dignity, potential and uniqueness of each individual in the state of Louisiana.

B. Specification of a code of conduct enables the Board to clarify to present and future counselors and to those served by counselors the responsibilities held in common by persons practicing mental health counseling.

C. Mental health counseling, as defined in the licensure law, is "assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers."

D. The existence of this code of conduct serves to govern the practice of mental health counseling and the professional functioning of Licensed Professional Counselors in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:142 (February 2003).

§2103. Counseling Relationship

A. Client Welfare

1. Primary Responsibility. The primary responsibility of counselors shall be to respect the dignity and to promote the welfare of clients.

2. Positive Growth and Development. Counselors shall encourage client growth and development in ways that foster the clients' interest and welfare; counselors shall avoid fostering dependent counseling relationships.

3. Counseling Plans. Counselors and their clients shall work jointly in devising integrated, individual counseling plans that offer reasonable promise of success and are consistent with abilities and circumstances of clients. Counselors and clients shall regularly review counseling plans to ensure their continued viability and effectiveness, respecting clients' freedom of choice.

4. Family Involvement. Counselors shall recognize that families are usually important in clients' lives and shall strive to enlist family understanding and involvement as a positive resource, when appropriate.

5. Career and Employment Needs. Counselors shall work with their clients in considering employment in jobs and circumstances that are consistent with the clients' overall abilities, vocational limitations, physical restrictions, general temperament, interest and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs. Counselors shall neither place nor participate in placing clients in positions that will result in damaging the interest and the welfare of clients, employers, or the public.

B. Respecting Diversity

1. Nondiscrimination. Counselors shall not condone or engage in discrimination based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, marital status, or socioeconomic status.

2. Respecting Differences. Counselors shall actively attempt to understand the diverse cultural backgrounds, of the clients with whom they work. This includes, but is not limited to, learning how the counselor's own cultural/ethnic/racial identity impacts her/his values and beliefs about the counseling process.

C. Client Rights

1. Disclosure to Clients. When counseling is initiated, and throughout the counseling process as necessary, counselors shall inform clients of the purposes, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed, and other pertinent information. Counselors shall take steps to ensure that clients understand and implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements. Clients have the right to expect confidentiality and to be provided with an explanation of its limitations, including supervision and/or treatment team professionals; to obtain clear information about their case records; to participate in the ongoing counseling plans; and to refuse any recommended services and be advised of the consequences of such refusal.

2. Freedom of Choice. Counselors shall offer clients the freedom to choose whether to enter into a counseling relationship and to determine which professional(s) will provide counseling. Restrictions that limit choices of clients shall be fully explained.

3. Inability to Give Consent. When counseling minors or persons unable to give voluntary informed consent, counselors shall act in these clients' best interests.

D. Clients Served by Others

1. If a client is receiving services from another mental health professional, counselors, with clients consent, shall inform the professional persons already involved and develop clear agreements to avoid confusion and conflict for the client.

E. Personal Needs and Values

1. Personal Needs. In the counseling relationship, counselors shall be aware of the intimacy and responsibilities inherent in the counseling relationship, maintain respect for clients, and shall avoid actions that seek to meet their personal needs at the expense of clients.

2. Personal Values. Counselors shall be aware of their own values, attitudes, beliefs, and behaviors and how these apply in a diverse society, and shall avoid imposing their values on clients.

F. Dual Relationships

1. Avoid When Possible. Counselors shall be aware of their influential positions with respect to clients, and they shall avoid exploiting the trust and dependency of clients. Counselors shall make every effort to avoid dual relationships with clients that could impair professional judgement or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, or close personal relationships with clients.) When a dual relationship cannot be avoided, counselors shall take appropriate professional precautions such as informed consent, consultation, supervision, and

documentation to ensure that judgment is not impaired and no exploitation occurs.

2. Superior/Subordinate Relationships. Counselors shall not accept as clients superiors or subordinates with whom they have administrative, supervisory, or evaluative relationships.

G. Sexual Intimacies with Clients

1. Current Clients. Counselors shall not have any type of sexual intimacies with clients and shall not counsel persons with whom they have had a sexual relationship.

2. Former Clients. Counselors shall not engage in sexual intimacies with former clients within a minimum of two years after terminating the counseling relationship. Counselors who engage in such relationship after two years following termination shall have the responsibility to thoroughly examine and document that such relations did not have an exploitative nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, adverse impact on the client, and actions by the counselor suggesting a plan to initiate a sexual relationship with the client after termination.

H. Multiple Clients. When counselors agree to provide counseling services to two or more persons who have a relationship (such as husband and wife, or parents and children), counselors shall clarify at the outset which person or persons are clients and the nature of the relationships they will have with each involved person. If it becomes apparent that counselors may be called upon to perform potentially conflicting roles, they shall clarify, adjust, or withdraw from roles appropriately.

I. Group Work

1. Screening. Counselors shall screen prospective group counseling/therapy participants. To the extent possible, counselors shall select members whose needs and goals are compatible with goals of the group, who will not impede the group process, and whose well-being will not be jeopardized by the group experience.

2. Protecting Clients. In a group setting, counselors shall take reasonable precautions to protect clients from physical or psychological trauma.

J. Fees and Bartering

1. Advance Understanding. Counselors shall clearly explain to clients, prior to entering the counseling relationship, all financial arrangements related to professional services including the use of collection agencies or legal measures for nonpayment.

2. Establishing Fees. In establishing fees for professional counseling services, counselors shall consider the financial status of clients and locality. In the event that the established fee structure is inappropriate for a client, assistance shall be provided in attempting to find comparable services of acceptable cost.

3. Bartering Discouraged. Counselors shall ordinarily refrain from accepting goods or services from clients in return for counseling services because such arrangements create inherent potential for conflicts, exploitation, and distortion of the professional relationship. Counselors may participate in bartering only if the relationship is not exploitive, if the client requests it, if a clear written contract is established, and if such arrangements are an accepted practice among professionals in the community.

4. Pro Bono Service. Counselors shall contribute to society by devoting a portion of their professional activity to services for which there is little or no financial return (pro bono).

K. Termination and Referral

1. Abandonment Prohibited. Counselors shall not abandon or neglect clients in counseling. Counselors shall assist in making appropriate arrangements for the continuation of treatment, when necessary, during interruptions such as vacations, and following termination.

2. Inability to Assist Clients. If counselors determine an inability to be of professional assistance to clients, they shall avoid entering or immediately terminate a counseling relationship. Counselors shall be knowledgeable about referral resources and suggest appropriate alternatives. If clients decline the suggested referral, counselors shall discontinue the relationship.

3. Appropriate Termination. Counselors shall terminate a counseling relationship, securing client agreement when possible, when it is reasonably clear that the client is no longer benefiting, when services are no longer required, when counseling no longer serves the client's needs or interests, when agency or institution limits do not allow provision of further counseling services.

L. Computer Technology

1. Use of Computers. When computer applications are used in counseling services, counselors shall ensure that:

- a. the client is intellectually, emotionally, and physically capable of using the computer application;
- b. the computer application is appropriate for the needs of the client;
- c. the client understands the purpose and operation of the computer applications; and
- d. a follow-up of client use of a computer application is provided to correct possible misconceptions, discover inappropriate use, and assess subsequent needs.

2. Explanation of Limitations. Counselors shall ensure that clients are provided information as a part of the counseling relationship that adequately explains the limitations of computer technology.

3. Access to Computer Applications. Counselors shall provide for equal access to computer applications in counseling services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:142 (February 2003).

§2105. Confidentiality

A. Right to Privacy

1. Respect for Privacy. Counselors shall respect their clients' right to privacy and avoid illegal and unwarranted disclosures of confidential information.

2. Client Waiver. The right to privacy may be waived by the client or their legally recognized representative.

3. Exceptions. The general requirement that counselors shall keep information confidential does not apply when disclosure is required to prevent clear and imminent danger to the client or others or when legal requirements demand that confidential information be revealed. Counselors shall consult with other professionals when in doubt as to the validity of an exception.

4. Contagious, Fatal Diseases. A counselor who receives information confirming that a client has a disease commonly known to be both communicable and fatal shall be justified in disclosing information to an identifiable third party, who by his or her relationship with the client is at a high risk of contracting the disease. Prior to making a disclosure the counselor shall ascertain that the client has not already informed the third party about his or her disease and that the client is not intending to inform the third party in the immediate future.

5. Court Ordered Disclosure. When court ordered to release confidential information without a client's permission, counselors shall request to the court that the disclosure not be required due to potential harm to the client or counseling relationship.

6. Minimal Disclosure. When circumstances require the disclosure of confidential information, only essential information shall be revealed. To the extent possible, clients are informed before confidential information is disclosed.

7. Explanation of Limitations. When counseling is initiated and throughout the counseling process as necessary, counselors shall inform clients of the limitations of confidentiality and identify foreseeable situations in which confidentiality must be breached.

8. Subordinates. Counselors shall make every effort to ensure that privacy and confidentiality of clients are maintained by subordinates including employees, supervisees, clerical assistants, and volunteers.

9. Treatment Teams. If client treatment will involve a continued review by a treatment team, the client shall be informed of the team's existence and composition.

B. Groups and Families

1. Group Work. In group work, counselors shall clearly define confidentiality and the parameters for the specific group being entered, explain its importance, and discuss the difficulties related to confidentiality involved in group work. The fact that confidentiality cannot be guaranteed shall be clearly communicated to group members.

2. Family Counseling. In family counseling, information about one family member shall not be disclosed to another member without permission. Counselors shall protect the privacy rights of each family member.

C. Minor or Incompetent Clients. When counseling clients who are minors or individuals who are unable to give voluntary, informed consent, parents or guardians shall be included in the counseling process as appropriate. Counselors shall act in the best interests of clients and take measures to safeguard confidentiality.

D. Records

1. Requirement of Records. Counselors shall maintain records necessary for rendering professional services to their clients and as required by laws, regulations, or agency or institution procedures.

2. Confidentiality of Records. Counselors shall be responsible for securing the safety and confidentiality of any counseling records they create, maintain, transfer, or destroy whether the records are written, taped, computerized, or stored in any other medium.

3. Permission to Record or Observe. Counselors shall obtain permission from clients prior to electronically recording or observing sessions.

4. Client Access. Counselors shall recognize that counseling records are kept for the benefit of clients, and therefore shall provide access to records and copies of records when requested by competent clients, unless the records contain information that may be misleading and detrimental to the client. In situations involving multiple clients, access to records shall be limited to those parts of records that do not include confidential information related to another client.

5. Disclosure or Transfer. Counselors shall obtain written permission from clients to disclose or transfer records to legitimate third parties unless exceptions to confidentiality exist as listed in §2105.A. Steps shall be taken to ensure that receivers of counseling records are sensitive to their confidential nature.

E. Research and Training

1. Data Disguise Required. Use of data derived from counseling relationships for purposes of training, research, or publication shall be confined to content that is disguised to ensure the anonymity of the individuals involved.

2. Agreement for Identification. Identification of a client in a presentation or publication shall be permissible only when the client has reviewed the material and has agreed to its presentation or publication.

F. Consultation

1. Respect for Privacy. Information obtained in a consulting relationship shall be discussed for professional purposes only with persons clearly concerned with the case. Written and oral reports shall present data germane to the purposes of the consultation, and every effort shall be made to protect client identity and avoid undue invasion of privacy.

2. Cooperation Agencies. Before sharing information, counselors shall make efforts to ensure that there are defined policies in other agencies serving the counselor's clients that effectively protect the confidentiality of information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:144 (February 2003).

§2107. Professional Responsibilities

A. Standards Knowledge. Counselors shall have a responsibility to read, understand, and follow the Code of Ethics and the Standards of Practice.

B. Professional Competence

1. Boundaries of Competence. Counselors shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall demonstrate a commitment to gain knowledge, personal awareness, sensitivity, and skills pertinent to working with a diverse client population. The Louisiana Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

2. New Specialty Areas of Practice. Counselors shall practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, counselors shall

take steps to ensure the competence of their work and to protect others from possible harm. The Louisiana Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of new area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

3. Qualified for Employment. Counselors shall accept employment only for positions for which they are qualified by education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall hire for professional counseling positions only individuals who are qualified and competent.

4. Monitor Effectiveness. Counselors shall continually monitor their effectiveness as professionals and take steps to improve when necessary. Counselors in private practice shall take reasonable steps to seek out peer supervision to evaluate their efficacy as counselors.

5. Ethical Issues Consultation. Counselors shall take reasonable steps to consult with other counselors or related professionals when they have questions regarding their ethical obligations or professional practice.

6. Continuing Education. Counselors shall recognize the need for continuing education to maintain a reasonable level of awareness of current scientific and professional information in their fields of activity. They shall take steps to maintain competence in the skills they use, are open to new procedures, and keep current when the diverse and/or special populations with whom they work.

7. Impairment. Counselors shall refrain from offering or accepting professional services when their physical, mental or emotional problems are likely to harm a client or others. They shall be alert to the signs of impairment, seek assistance for problems, and, if necessary, limit, suspend, or terminate their professional responsibilities.

C. Advertising and Soliciting Clients

1. Accurate Advertising. There are no restrictions on advertising by counselors except those that can be specifically justified to protect the public from deceptive practices. Counselors shall advertise or represent their services to the public by identifying their credentials in an accurate that is not false, misleading, deceptive, or fraudulent. Counselors shall only advertise the highest degree earned which is in counseling or a closely related field from a college or university that was accredited by one of the regional accrediting bodies recognized by the Council on Postsecondary Accreditation at the time the degree was awarded.

2. Testimonials. Counselors who use testimonials shall not solicit them from clients or other persons who, because of their particular circumstances, may be vulnerable to undue influence.

3. Statements by Others. Counselors shall make reasonable efforts to ensure that statements made by others about them or the profession of counseling are accurate.

4. Recruiting Through Employment. Counselors shall not use their places of employment or institutional affiliation to recruit or gain clients, supervisees, or consultees for their private practices.

5. Products and Training Advertisements. Counselors who develop products related to their profession or conduct

workshops or training events shall ensure that the advertisements concerning these products or events are accurate and disclose adequate information for consumers to make informed choices.

6. Promoting to Those Served. Counselors shall not use counseling, teaching, training, or supervisory relationships to promote their products or training events in a manner that is deceptive or would exert undue influence on individuals who may be vulnerable. Counselors may adopt textbooks they have authored for instruction purposes.

7. Professional Association Involvement. Counselors shall actively participate in local, state, and national associations that foster the development and improvement of counseling.

D. Credentials

1. Credentials Claimed. Counselors shall claim or imply only professional credentials possessed and are responsible for correcting any known misrepresentations of their credentials by others. Professional credentials shall include graduate degrees in counseling or closely related mental health fields, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, ACA professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in counseling.

2. ACA Professional Membership. ACA professional members may announce to the public their membership status. Regular members shall not announce their ACA membership in a manner that might imply they are credentialed counselors.

3. Credential Guidelines. Counselors shall follow the guidelines for use of credentials that have been established by the entities that issue the credentials.

4. Misrepresentation of Credentials. Counselors shall not attribute more to their credentials than the credentials represent, and shall not imply that other counselors are not qualified because they do not possess certain credentials.

5. Doctoral Degrees from Other Fields

a. Counselors who hold a master's degree in counseling or a closely related mental health field, but hold a doctoral degree from other than counseling or a closely related field shall not use the title, "Dr." in their practices and shall not announce to the public in relation to their practice or status as a counselor that they hold a doctorate.

b. A doctoral degree in counseling or a closely related field is defined as a doctoral degree from a regionally accredited university that shall conform to one of the criteria below:

i. a CACREP accredited doctoral counseling program;

ii. a doctoral counseling program incorporating the work "counseling" or "counselor" in its title;

iii. a doctoral program incorporating a counseling related term in its title (e.g., "Marriage and Family Therapy"); or

iv. a doctoral program in a behavioral science that would augment the counseling skills of a Licensed Professional Counselor.

E. Public Responsibility

1. Nondiscrimination. Counselors shall not discriminate against clients, students, or supervisees in a manner that has a negative impact based on their age, color,

culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status, or for any other reason.

2. Sexual Harassment. Counselors shall not engage in sexual harassment. Sexual harassment is defined as sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with professional activities or roles, and that either:

a. is unwelcome, is offensive, or creates a hostile workplace environment, and counselors know or are told this; or

b. is sufficiently severe or intense to be perceived as harassment to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts.

3. Reports to Third Parties. Counselors shall be accurate, honest, and unbiased in reporting their professional activities and judgments to appropriate third parties including courts, health insurance companies, those who are the recipients of evaluation reports, and others.

4. Media Presentations. When counselors provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they shall take reasonable precautions to ensure that:

a. the statements are based on appropriate professional counseling literature and practice;

b. the statements are otherwise consistent with the Code of Ethics and the Standards of Practice; and

c. the recipients of the information are not encouraged to infer that a professional counseling relationship has been established.

5. Unjustified Gains. Counselors shall not use their professional positions to seek or receive unjustified personal gains, sexual favors, unfair advantage, or unearned goods or services.

F. Responsibility to Other Professionals

1. Different Approaches. Counselors shall be respectful of approaches to professional counseling that differ from their own. Counselors shall know and take into account the traditions and practices of other professional groups with which they work.

2. Personal Public Statements. When making personal statements in a public context, counselors shall clarify that they are speaking from their personal perspectives and that they are not speaking on behalf of all counselors or the profession.

3. Clients Served by Others. When counselors learn that their clients are in a professional relationship with another mental health professional, they shall request release from clients to inform the other professionals and strive to establish positive and collaborative professional relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:145 (February 2003).

§2109. Relationships with Other Professionals

A. Relationships with Employers and Employees

1. Role Definition. Counselors shall define and describe for their employers and employees the parameters and levels of their professional roles.

2. **Agreements.** Counselors shall establish working agreements with supervisors, colleagues, and subordinates regarding counseling or clinical relationships, confidentiality, adherence to professional standards, distinction between public and private material, maintenance and dissemination of recorded information, workload, and accountability. Working agreements in each instance shall be specified and made known to those concerned.

3. **Negative Conditions.** Counselors shall alert their employers to conditions that may be potentially disruptive or damaging to the counselor's professional responsibilities or that may limit their effectiveness.

4. **Evaluation.** Counselors shall submit regularly to professional review and evaluation by their supervisor or the appropriate representative of the employer.

5. **In-Service.** Counselors shall be responsible for in-service development of self and staff.

6. **Goals.** Counselors shall inform their staff of goals and programs.

7. **Practices.** Counselors shall provide personnel and agency practices that respect and enhance the rights and welfare of each employee and recipient of agency services. Counselors shall strive to maintain the highest levels of professional services.

8. **Personnel Selection and Assignment.** Counselors shall select competent staff and assign responsibilities compatible with their skills and experiences.

9. **Discrimination.** Counselors, as either employers or employees, shall not engage in or condone practices that are inhumane, illegal, or unjustifiable (such as considerations based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status) in hiring, promotion, or training.

10. **Professional Conduct.** Counselors shall have a responsibility both to clients and to the agency or institution within which services are performed to maintain high standards of professional conduct.

11. **Exploitive Relationships.** Counselors shall not engage in exploitive relationships with individuals over whom they have supervisory, evaluative, or instructional control or authority.

12. **Employer Policies.** The acceptance of employment in an agency or institution implies that counselors shall be in agreement with its general policies and principles. Counselors shall strive to reach agreement with employers as to acceptable standards of conduct that allow for changes in institutional policy conducive to the growth and development of clients.

B. Consultation

1. **Consultation as an Option.** Counselors may choose to consult with any other professionally competent persons about their clients. In choosing consultants, counselors shall avoid placing the consultant in a conflict of interest situation that would preclude the consultant being a proper party to the counselor's efforts to help the client. Should counselors be engaged in a work setting that compromises this consultation standard, they shall consult with other professionals whenever possible to consider justifiable alternatives.

2. **Consultant Competency.** Counselors shall be reasonably certain that they have or the organization represented has the necessary competencies and resources

for giving the kind of consulting services needed and that appropriate referral resources are available.

3. **Understanding with Clients.** When providing consultation, counselors shall attempt to develop with their clients a clear understanding of problem definition, goals for change, and predicted consequences of interventions selected.

4. **Consultant Goals.** The Consulting relationship is one in which client adaptability and growth toward self-direction shall be consistently encouraged and cultivated.

C. Fees for Referral

1. **Accepting Fees from Agency Clients.** Counselors shall refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the counselor's employing agency or institution. The policies of a particular agency may make explicit provisions for agency clients to receive counseling services from members of its staff in private practice. In such instances, the clients must be informed of other options open to them should they seek private counseling services.

2. **Referral Fees.** Counselors shall not accept a referral fee from other professionals.

D. **Subcontractor Arrangements.** When counselors work as subcontractors for counseling services for a third party, they shall have a duty to inform clients of the limitations of confidentiality that the organization may place on counselors in providing counseling services to clients. The limits of such confidentiality ordinarily shall be discussed as part of the intake session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:146 (February 2003).

§2111. Evaluation, Appraisal, and Interpretation

A. General

1. **Appraisal Techniques.** The primary purpose of appraisal (henceforth known as "appraisal") is to provide measures that are objective and interpretable in either comparative or absolute terms. Counselors shall recognize the need to interpret the statements in this section as applying to the whole range of appraisal techniques, including test and non-test data. Counselors shall recognize their legal parameters in utilizing formalized appraisal techniques and adhere to such.

2. **Client Welfare.** Counselors shall promote the welfare and best interests of the client in the development, publication and utilization of appraisal techniques. They shall not misuse appraisal results and interpretations and shall take reasonable steps to prevent others from misusing the information these techniques provide. They shall respect the client's right to know the result, the interpretations made, and the bases for their conclusions and recommendations.

B. Competence to Use and Interpret Tests

1. **Limits of Competence.** Counselors shall recognize the limits of their competence and perform only those testing and appraisal services for which they have been trained and is within RS 37:1101-1122. They shall be familiar with reliability, validity, related standardization, error of measurement, and proper application of any technique utilized. Counselors using computer-based test interpretations shall be trained in the construction being measured and the specific instrument being used prior to

using this type of computer application. Counselors shall take reasonable measures to ensure the proper use of formalized appraisal techniques by persons under their supervision.

2. **Appropriate Use.** Counselors shall be responsible for the appropriate application, scoring, interpretation, and use of appraisal instruments, whether they score and interpret such tests themselves or use computerized or other services.

3. **Decisions Based on Results.** Counselors shall be responsible for decisions involving individuals or policies that are based on appraisal results have a thorough understanding of formalized measurement technique, including validation criteria, test research, and guidelines for test development and use.

4. **Accurate Information.** Counselors shall provide accurate information and avoid false claims or misconceptions when making statements about formalized appraisal instruments or techniques.

C. Informed Consent

1. **Explanation to Clients.** Prior to performing such, counselors shall explain the nature and purposes of a formal appraisal and the specific use of results in language the client (or other legally authorized person on behalf of the client) can understand, unless as explicit exception to this right has been agreed upon in advance. Regardless of whether scoring and interpretation are completed by counselors, or by computer or other outside services, counselors shall take reasonable steps to ensure that appropriate explanations are given to the client.

2. **Recipients of Results.** The examinee's welfare, explicit understanding, and prior agreement shall determine the recipients of test results. Counselors shall include accurate and appropriate interpretations with any release of individual or group test results.

D. Release of Information to Competent Professionals

1. **Misuse of Results.** Counselors shall not misuse appraisal results, including test results, and interpretations, and shall take reasonable steps to prevent the misuse of such by others.

2. **Release of Raw Data.** Counselors shall ordinarily release data (e.g., protocols, counseling or interview notes, or questionnaires) in which the client is identified only with the consent of the client or the client's legal representative. Such data are usually released only to persons recognized by counselors as competent to interpret the data.

E. Test Selection

1. **Appropriateness of Instruments.** Counselors shall carefully consider the validity, reliability, psychometric limitations, and appropriateness of instruments when selecting tests for use in a given situation or with a particular client.

2. **Culturally Diverse Populations.** Counselors shall be cautious when selecting tests for culturally diverse populations to avoid inappropriateness of testing that may be outside of socialized behavioral or cognitive patterns.

F. Conditions of Test Administration

1. **Administration Conditions.** Counselors shall administer tests under the same conditions that were established in their standardization. When tests are not administered under standard conditions or when unusual behavior or irregularities occur during the testing session,

those conditions shall be noted in interpretation, and the results may be designated as invalid or of questionable validity.

2. **Computer Administration.** Counselors shall be responsible for ensuring that administration programs function properly to provide clients with accurate results when a computer or other electronic methods are used for test administration.

3. **Unsupervised Test-Taking.** Counselors shall not permit unsupervised or inadequately supervised use of tests or appraisals unless the tests or appraisals are designed, intended, and validated for self-administration and/or scoring.

4. **Disclosure of Favorable Conditions.** Prior to test administration, conditions that produce most favorable test results shall be made known to the examinee.

G. **Diversity in Testing** Counselors shall be cautious in using appraisal techniques, making evaluations, and interpreting the performance of populations not represented in the norm group on which an instrument was standardized. They shall recognize the effects of age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, and socioeconomic status on test administration and interpretation and place test results in proper perspective with other relevant factors.

H. Test Scoring and Interpretation

1. **Reporting Reservations.** In reporting appraisal results, counselors shall indicate any reservations that exist regarding validity or reliability because of the circumstances of the appraisal or the inappropriateness of the norms for the person tested.

2. **Research Instruments.** Counselors shall exercise caution when interpreting the results of research instruments possessing insufficient technical data to support respondent results. The specific purposes for the use of such instruments shall be stated explicitly to the examinee.

3. **Testing Services.** Counselors who provide test scoring and test interpretation services to support the appraisal process shall confirm the validity of such interpretations. They shall accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use. The public offering of an automated test interpretations service is shall be considered a professional-to-professional consultation. The formal responsibility of the consultant shall be to the consultee, but the ultimate and overriding responsibility shall be to the client.

I. **Test Security.** Counselors shall maintain the integrity and security of tests and other appraisal techniques consistent with legal and contractual obligations. Counselors shall not appropriate, reproduce, or modify published tests or parts thereof without acknowledgment and permission from the publisher.

J. **Obsolete Tests and Outdated Test Results.** Counselors shall not use data or test results that are obsolete or outdated for the current purpose. Counselors shall make every effort to prevent the misuse of obsolete measures and test data by others.

K. **Test Construction.** Counselors shall use established scientific procedures, relevant standards, and current professional knowledge for test design in the development, publication, and utilization of appraisal techniques.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICALNOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:147 (February 2003).

§2113. Teaching, Training, and Supervision

A. Counselor Educators and Trainers

1. Educators as Teachers and Practitioners. Counselors who are responsible for developing, implementing, and supervising educational programs shall be skilled as teachers and practitioners. They shall be knowledgeable regarding the ethical, legal, and regulatory aspects of the profession, shall be skilled in applying that knowledge, and shall make students and supervisees aware of their responsibilities. Counselors shall conduct counselor education and training programs in an ethical manner and shall serve as role models for professional behavior. Counselor educators shall make an effort to infuse material related to human diversity into all courses and/or workshops that are designed to promote the development of professional counselors.

2. Relationship Boundaries with Students and Supervisees. Counselors shall clearly define and maintain ethical, professional, and social relationship boundaries with their students and supervisees. They shall be aware of the differential in power that exists and the student's or supervisee's possible incomprehension of that power differential. Counselors shall explain to students and supervisees the potential for the relationship to become exploitive.

3. Sexual Relationships. Counselors shall not engage in sexual relationships with students or supervisees and shall not subject them to sexual harassment.

4. Contributions to Research. Counselors shall give credit to students or supervisees for their contributions to research and scholarly projects. Credit shall be given through co-authorship, acknowledgment, footnote statement, or other appropriate means, in accordance with such contributions.

5. Close Relatives. Counselors shall not accept close relatives as students or supervisees.

6. Supervision Preparations. Counselors who offer clinical supervision services shall be adequately prepared in supervision methods and techniques. Counselors who are doctoral students serving as practicum or internship supervisors to master's level students shall be adequately prepared and supervised by the training program.

7. Responsibility for Services to Clients. Counselors who supervise the counseling services of others shall take reasonable measures to ensure that counseling services provided to clients are professional.

8. Endorsement. Counselors shall not endorse students or supervisees for certification, licensure, employment, or completion of an academic or training program if they believe students or supervisees are not qualified for the endorsement. Counselors shall take reasonable steps to assist students or supervisees who are not qualified for endorsement to become qualified.

B. Counselor Education and Training Programs

1. Orientation. Prior to admission, counselors shall orient prospective students to the counselor education or

training program's expectations, including but not limited to the following:

- a. the type and level of skill acquisition required for successful completion of the training;
- b. subject matter to be covered;
- c. basis for evaluation;
- d. training components that encourage self-growth or self-disclosure as part of the training process;
- e. the type of supervision settings and requirements of the sites for required clinical field experiences;
- f. student and supervisee evaluation and dismissal policies and procedures; and
- g. up-to-date employment prospects for graduates.

2. Integration of Study and Practice. Counselors shall establish counselor education and training programs that integrate academic study and supervised practice.

3. Evaluation. Counselors shall clearly state to students and supervisees, in advance of training, the levels of competency expected, appraisal methods, and timing of evaluations for both didactic and experiential components. Counselors shall provide students and supervisees with periodic performance appraisal and evaluation feedback throughout the training program.

4. Teaching Ethics. Counselors shall make students and supervisees aware of the ethical responsibilities and standards of the profession and the students' and supervisees' ethical responsibilities to the profession.

5. Peer Relationships. When students or supervisees are assigned to lead counseling groups or provide clinical supervision for their peers, counselors shall take steps to ensure that students and supervisees placed in these roles do not have personal or adverse relationships with peers and that they understand they have the same ethical obligations as counselor educators, trainers, and supervisors. Counselors shall make every effort to ensure that the rights of peers are not compromised when students or supervisees are assigned to lead counseling groups or provide clinical supervision.

6. Varied Theoretical Positions. Counselors shall present varied theoretical positions so that students and supervisees may make comparisons and have opportunities to develop their own positions. Counselors shall provide information concerning the scientific bases of professional practice.

7. Field Placement. Counselors shall develop clear policies within their training program regarding field placement and other clinical experiences. Counselors shall provide clearly stated roles and responsibilities for the student or supervisee, the site supervisor, and the program supervisor. They shall confirm that site supervisors are qualified to provide supervision and are informed of their professional and ethical responsibilities in this role.

8. Dual Relationships as Supervisors. Counselors shall avoid dual relationships such as performing the role of site supervisor and training program supervisor in the student's or supervisee's training program. Counselors shall not accept any form of professional services, fees, commissions, reimbursement, or remuneration from a site for student or supervisee placement.

9. Diversity in Programs. Counselors shall be responsive to their institution's and program's recruitment

and retention needs for training program administrators, faculty, and students with diverse backgrounds and special needs.

C. Students and Supervisees

1. **Limitations.** Counselors, through ongoing evaluation and appraisal, shall be aware of the academic and personal limitations of students and supervisees that might impede performance. Counselors shall assist students and supervisees in securing remedial assistance when needed, and dismiss from the training program supervisees who are unable to provide competent service due to academic or personal limitations. Counselors shall seek professional consultation and document their decision to dismiss or refer students or supervisees for assistance. Counselors shall assure that students and supervisees have recourse to address decisions made, to require them to seek assistance, or to dismiss them.

2. **Self-Growth Experience.** Counselors shall use professional judgment when designing training experiences conducted by the counselors themselves that require student and supervisee self-growth or self-disclosure. Safeguards shall be provided so that students and supervisees are aware of the ramifications their self-disclosure may have on counselors whose primary role as teacher, trainer, or supervisor requires acting on ethical obligations to the profession. Evaluative components of experiential training experiences shall explicitly delineate predetermined academic standards that are separate and not dependent on the student's level of self-disclosure.

3. **Counseling for Students and Supervisees.** If students or supervisees request counseling, supervisors or counselor educators shall provide them with acceptable referrals. Supervisors or counselor educators shall not serve as counselor to students or supervisees over whom they hold administrative, teaching, or evaluative roles unless this is a brief role associated with a training experience.

4. **Clients of Students and Supervisees.** Counselors shall make every effort to ensure that the clients at field placements are aware of the services rendered and the qualifications of the students and supervisees rendering those services. Clients shall receive professional disclosure information and shall be informed of the limits of confidentiality. Client permission shall be obtained in order for the students and supervisees to use any information concerning the counseling relationship in the training process.

5. **Standards for Students and Supervisees.** Students and supervisees preparing to become counselors shall adhere to the Code of Ethics and the Standards of Practice. Students and supervisees shall have the same obligations to clients as those required of counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:149 (February 2003).

§2115. Research and Publication

A. Research Responsibilities

1. **Use of Human Subjects.** Counselors shall plan, design, conduct, and report research in a manner consistent with pertinent ethical principles, federal and state laws, host

institutional regulations, and scientific standards governing research with human subjects. Counselors shall design and conduct research that reflects cultural sensitivity appropriateness.

2. **Deviation from Standard Practices.** Counselors shall seek consultation and observe stringent safeguards to protect the rights of research participants when a research problem suggests a deviation from standard acceptable practices.

3. **Precautions to Avoid Injury.** Counselors who conduct research with human subjects shall be responsible for the subjects' welfare throughout the experiment and shall take reasonable precautions to avoid causing injurious psychological, physical, or social effects to their subjects.

4. **Principal Researcher Responsibility.** The ultimate responsibility for ethical research practice shall lie with the principal researcher. All others involved in the research activities shall share ethical obligations and full responsibility for their own actions.

5. **Minimal Interference.** Counselors shall take reasonable precautions to avoid causing disruptions in subjects' lives due to participation in research.

6. **Diversity.** Counselors shall be sensitive to diversity and research issues with special populations. They shall seek consultation when appropriate.

B. Informed Consent

1. **Topics Disclosed.** In obtaining informed consent for research, counselors shall use language that is understandable to research participants and that:

- a. accurately explains the purpose and procedures to be followed;
- b. identifies any procedures that are experimental or relatively untried;
- c. describes the attendant discomforts and risks;
- d. describes the benefits or changes in individuals or organizations that might be reasonably expected;
- e. discloses appropriate alternative procedures that would be advantageous for subjects;
- f. offers to answer any inquiries concerning the procedures;
- g. describes any limitations on confidentiality; and
- h. instructs that subjects are free to withdraw their consent and to discontinue participation in the project at any time.

2. **Deception.** Counselors shall not conduct research involving deception unless alternative procedures are not feasible and the prospective value of the research justifies the deception. When the methodological requirements of a study necessitate concealment or deception, the investigator shall be required to explain clearly the reasons for this action as soon as possible.

3. **Voluntary Participation.** Participation in research shall be typically voluntary and without any penalty for refusal to participate. Involuntary participation shall be appropriate only when it can be demonstrated that participation will have no harmful effects on subjects and is essential to the investigation.

4. **Confidentiality of Information.** Information obtained about research participants during the course of an investigation is confidential. When the possibility exists that

others may obtain access to such information, ethical research practice requires that the possibility, together with the plans for protecting confidentiality, shall be explained to participants as a part of the procedure for obtaining informed consent.

5. **Persons Incapable of Giving Informed Consent.** When a person is incapable of giving informed consent, counselors shall provide an appropriate explanation, obtain agreement for participation and shall obtain appropriate consent from a legally authorized person.

6. **Commitments to Participants.** Counselors shall take reasonable measures to honor all commitments to research participants.

7. **Explanations after Data Collections.** After data are collected, counselors shall provide participants with full clarification of the nature of the study to remove any misconceptions. Where scientific or human values justify delaying or withholding information, counselors shall take reasonable measures to avoid causing harm.

8. **Agreements to Cooperate.** Counselors who agree to cooperate with another individual in research or publication incur an obligation to cooperate as promised in terms of punctuality of performance and with regard to the completeness and accuracy of the information required.

9. **Informed Consent for Sponsors.** In the pursuit of research, counselors shall give sponsors, institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. Counselors shall be aware of their obligation to future research workers and ensure that host institutions are given feedback information and proper acknowledgment.

C. Reporting Results

1. **Information Affecting Outcome.** When reporting research results, counselors shall explicitly mention all variables and conditions known to the investigator that may have affected the outcome of a study or the interpretation of data.

2. **Accurate Results.** Counselors shall plan, conduct, and report research accurately and in a manner that minimizes the possibility that results will be misleading. They shall provide thorough discussions of the limitations of their data and alternative hypotheses. Counselors shall not engage in fraudulent research, distort data, misrepresent data, or deliberately bias their results.

3. **Obligation to Report Unfavorable Results.** Counselors shall communicate to other counselors the results of any research judged to be of professional value. Results that reflect unfavorably on institutions, programs, services, prevailing opinions, or vested interests shall not withheld.

4. **Identity of Subjects.** Counselors who supply data, aid in the research of another person, report research results, or make original data available shall take due care to disguise the identity of respective subjects in the absence of specific authorization from the subjects to do otherwise.

5. **Replication Studies.** Counselors shall be obligated to make available sufficient original research data to qualified professionals who may wish to replicate the study.

D. Publication

1. **Recognition of Others.** When conducting and reporting research, counselors shall be familiar with and give recognition to previous work on the topic, observe copyright laws, and give full credit to those to whom credit is due.

2. **Contributors.** Counselors shall give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to research or concept development in accordance with such contributions. The principal contributor shall be listed first and minor technical or professional contributions shall be acknowledged in notes or introductory statements.

3. **Student Research.** For an article that is substantially based on a student's dissertation or thesis, the student shall be listed as the principal author.

4. **Duplicate Submission.** Counselors shall submit manuscripts for consideration to only one journal at a time. Manuscripts that are published in whole or in substantial part in another journal or published work shall not be submitted for publication without acknowledgment and permission from the previous publication.

5. **Professional Review.** Counselors who review material submitted for publication, research, or other scholarly purposes shall respect the confidentiality and proprietary rights of those who submitted it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:150 (February 2003).

§2117. Resolving Ethical Issues

A. **Knowledge of Standards.** Counselors shall be familiar with the Code of Ethics and the Standards of Practice and other applicable ethics codes from other professional organizations of which they are members, or from certification and licensure bodies. Lack of knowledge or misunderstanding of an ethical responsibility shall not be a defense against a charge of unethical conduct.

B. Suspected Violations.

1. **Ethical Behavior Expected.** Counselors shall expect professional associates to adhere to Code of Ethics. When counselors possess reasonable cause that raises doubts as to whether a counselor is acting in an ethical manner, they shall take appropriate action.

2. **Consultation.** When uncertain as to whether a particular situation or course of action may be in violation of Code of Ethics, counselors shall consult with other counselors who are knowledgeable about ethics, with colleagues, or with appropriate authorities.

3. **Organization Conflicts.** If the demands of an organization with which counselors are affiliated pose a conflict with Code of Ethics, counselors shall specify the nature of such conflicts and express to their supervisors or other responsible officials their commitment to Code of Ethics. When possible, counselors shall work toward change within the organization to allow full adherence to Code of Ethics.

4. **Informal Resolution.** When counselors have reasonable cause to believe that another counselor is violating an ethical standard, they shall attempt to first resolve the issue informally with the other counselor if feasible, providing that such action does not violate confidentiality rights that may be involved.

5. **Reporting Suspected Violations.** When an informal resolution is not appropriate or feasible, counselors, upon reasonable cause, shall take action such as reporting the suspected ethical violation to state or national ethics committee, unless this action conflicts with confidentiality rights that cannot be resolved.

6. **Unwarranted Complaints.** Counselors shall not initiate, participate in, or encourage the filing of ethics complaints that are unwarranted or intend to harm a counselor rather than to protect clients or the public.

C. **Cooperation with Ethics Committees.** Counselors shall assist in the process of enforcing Code of Ethics. Counselors shall cooperate with investigations, proceedings, and requirements of the ACA Ethics Committee or ethics committees of other duly constituted associations or boards having jurisdiction over those charged with a violation. Counselors shall be familiar with the ACA Policies and Procedures and use it as a reference in assisting the enforcement of the Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:151 (February 2003).

§2118. Appendix C Declaration of Practices and Procedures for Licensed Professional Counselors

A. The following comprises the information that must be available in writing for each client seen by a licensed professional counselor/counselor intern in the state of Louisiana. Counselors/counselor interns must read and incorporate the Code of Conduct for Professional Counselors in their declaration statement.

1. LPC/counselor intern's name, mailing address, and telephone number.

2. **Qualifications**

a. Include degrees earned and institution(s) attended.

b. Give your license number, specifying the LPC Board of Examiners including address and telephone number as the grantor of your license.

c. An individual under supervision must refer to him/herself as a counselor intern and include the name and address of his/her board-approved supervisor.

3. **Counseling Relationship**

a. Provide a general statement about the dynamics of the counseling relationship.

b. Include general goals for clients.

4. **Areas of Expertise**

a. List your areas of expertise such as career counseling, marriage and family counseling, adolescents, etc.

b. List your national certifications in counseling.

5. **Fee Scales**

a. List your fees and describe your billing policies.

b. Describe your policy on scheduling and breaking appointments.

c. State your policy on insurance payments.

6. **Explanation of the Types of Services Offered and Clients Served**

a. Include the theoretical basis and the type of techniques and/or strategies that you use in therapy;

b. Specify the modality you use such as group and/or individual therapy.

c. Specify the type(s) of clients you serve.

7. **Code of Conduct:** State that you are required by state law to adhere to a Code of Conduct for your practice which is determined by the Louisiana Licensing Board, and a copy of this Code is available on request.

8. **Privileged Communication.** Describe the Rules governing privileged communication and include the limits of confidentiality.

9. **Emergency Situations.** Describe your policy for emergency client situations.

10. **Client Responsibilities.** List client responsibilities, e.g., clients are expected to follow office procedures for keeping appointments, clients must pay for services at the time of each visit, and clients must terminate the counseling relationship before being seen by another mental health professional and/or notify the counselor of any other ongoing professional mental health relationship. If a client is seeing another mental health professional (psychologist, board certified social worker, etc.), then permission must be granted by the first therapist for the second to work with the same client. (See Code of Conduct).

11. **Physical Health.** Suggest that client have a complete physical examination if he/she has not had one within the past year. Also have client list any medications that he/she may be taking.

12. **Potential Counseling Risks.** Indicate that as a result of mental health counseling, the client may realize that he/she has additional issues which may not have surfaced prior to the onset of the counseling relationship. The counselor may also indicate possible risk within specific specialty areas (i.e., marriage and family: as one partner changes, additional strain may be placed on the marital relationship if the other partner refuses to work).

13. It is also required that a place be provided for the signatures of the counselor/counselor intern, the client(s), and the counselor intern's supervisor. A general statement indicating that the client has read and understands the declaration statement and the date of the signature must also be included.

B. To practice mental health counseling in Louisiana the Licensed Professional Counselor must have a copy of his/her declaration statement on file in the LPC Board office. The counselor intern must include a copy of his/her declaration statement with his/her Registration of Supervision. The Code of Conduct can be duplicated for clients and additional copies are available from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37: 1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:152 (February 2003).

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists **Chapter 27. General Provisions**

§2701. Statement of Purpose

A. "The legislature does further hereby find and declare that marriage and family therapy in this state is a

professional practice which affects the public safety and welfare of the citizens of the state and requires appropriate regulation and control in the public interest. It is a purpose of this Chapter to establish a regulatory structure and procedures that will ensure that the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of marriage and family therapy." (R.S. 37:1102)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:152 (February 2003).

§2703. Statutory Authority of the Marriage and Family Therapy Advisory Committee

A. The Marriage and Family Therapy Advisory Committee was created and empowered by Act 1195 of the 2001 Legislature to provide for the regulation of the use of the title "Licensed Marriage and Family Therapist" (R.S. 37:1101-1122). Therefore, the Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred to as the board, establishes the Marriage and Family Therapy Advisory Committee as directed by the 2001 Legislature. The Marriage and Family Therapy Advisory Committee shall develop the Rules and regulations herein pursuant to the authority granted to, and imposed upon, said advisory committee under the provisions of the Louisiana Revised Statutes, Title 37, Chapter 13: §1101-1122. The Health and Welfare Committees in the House and Senate shall jointly approve these Rules and regulations. The board shall promulgate these Rules and regulations [R.S. 37:1104(B)(2)(b)]. The board shall approve, revoke, suspend, and renew the license of applicants for licensure as licensed marriage and family therapists upon recommendation of the Marriage and Family Therapy Advisory Committee. [R.S. 37:1105(G)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003).

§2705. Description of Organization

A. The Marriage and Family Therapy Advisory Committee, hereafter referred to as the advisory committee, consists of three members, who shall be residents of the state of Louisiana. All candidates and advisory committee members shall be licensed marriage and family therapists except for the first three members who shall be members of the American Association for Marriage and Family Therapy. These first three advisory committee members shall be eligible for licensure as licensed marriage and family therapists under Title 37, Chapter 13 as soon as these Rules and regulations are approved. Two advisory committee members shall be members of the board.

B. The governor shall make appointments to the board and the advisory committee from a list of qualified candidates submitted by the board of the Louisiana Association of Marriage and Family Therapy, hereinafter referred to as LAMFT. LAMFT shall specify which candidates are to be appointed to the board. Each appointment by the governor shall be submitted to the Senate for confirmation.

C. Board member terms shall be for four years; non-board member terms shall be for three years. No advisory

committee member shall serve more than two full consecutive terms.

D. Any vacancy occurring in advisory committee membership, other than by expiration of term, shall be filled for the remainder of the unexpired term by the governor within 30 days from a list of qualified candidates supplied by the LAMFT board as prescribed in Section 1104 of R.S. 37:1101-1122.

E. No advisory committee member shall be liable in any civil action for any act performed in good faith in the execution of his or her duties under Chapter 13 of Title 37.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003).

§2707. Reimbursement

A. Each advisory committee member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board or advisory committee business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003).

§2709. Notification of Change

A. Licensed marriage and family therapists/interns and LMFT-approved supervisors/supervisors-in-training shall notify the Licensed Professional Counselors Board of Examiners in writing of any and all changes in name, address, and phone number within 30 days. Failure to do so will result in a fine as set forth in §901.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:153 (February 2003).

Chapter 29. Advisory Committee Meetings, Procedures, Records, Powers and Duties

§2901. Officers

A. The advisory committee shall elect from its membership a chair, vice chair, and secretary. The chair shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 13 of Title 37 and these Rules. The chair is authorized by the board to make day-to-day decisions regarding advisory committee activities to facilitate its responsiveness and effectiveness. The vice chair shall perform the duties of the chair if the chair is absent or disabled. If the office of chair becomes vacant, the vice chair shall serve as chair until a successor is named. The secretary shall keep the minutes of the advisory committee meetings and send them to the advisory committee members and the clerical secretary before the next meeting of the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:153 (February 2003).

§2903. Meetings

A. The advisory committee shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the advisory committee. Advisory committee meetings

shall be held at least semiannually. The advisory committee shall hold meetings regularly, with prior approval from the Board, to conduct its business. Reasonable notice of all advisory committee meetings will be given by posting the meeting place, time, and agenda 24 hours before the meeting on the door and in two places in the building housing the office of the board and on the door of the location of the meeting, if different from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:153 (February 2003).

§2905. Quorum

A. Two members of the advisory committee shall constitute a quorum at any meeting or hearing for the transaction of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003).

§2907. Procedures

A. The advisory committee shall develop such Rules and regulations as it deems necessary to effect the provisions of Act 1195 (Chapter 13, R.S. 37:1101-1122). The board shall promulgate these Rules and regulations. The House and Senate Health and Welfare Committees shall jointly approve these Rules and regulations.

B. The advisory committee shall review applications for examination, licensure, and renewal for recommended approval to the board. The advisory committee shall recommend to the board to withhold, deny, revoke, or suspend any license of an applicant, or impose any other sanctions on licensed marriage and family therapists.

C. The advisory committee shall submit an annual report to the board containing its professional actions during the year. The advisory committee hereby adopts Robert's Rules of Order Revised as the basis of its parliamentary decisions except as otherwise provided by advisory committee Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003).

§2909. Code of Ethics

A. The advisory committee has adopted the Code of Ethics of the American Association for Marriage and Family Therapy (AAMFT), including any revisions or additions deemed appropriate or necessary by the board as recommended by advisory committee. AAMFT has given its written permission to use its code of ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003).

§2911. Records

A. The advisory committee shall maintain records of pertinent matters relating to application, licensure, and discipline. Registers of approved supervisors and

supervisors-in-training and a register of licensed marriage and family therapists shall be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:154 (February 2003).

Chapter 31. License of Title for Marriage and Family Therapy

§3101. License of Title for Marriage and Family

Therapy

A. As stated in R.S. 37:1122(A), no person, unless licensed as a marriage and family therapist, shall advertise as being a "licensed marriage and family therapist" or hold themselves out to the public or make use of any title, words, letters or abbreviations that may reasonably be confused with the title "licensed marriage and family therapist."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003).

§3103. Practice of Marriage and Family Therapy by

Other Licensed Mental Health Professionals

A. Nothing in this subpart shall be construed as prohibiting qualified members of other professional groups including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. No such person, however, shall use the title, or use any words or abbreviations that may reasonably be confused with the title, "licensed marriage and family therapist."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003).

§3105. Definitions for Licensed Marriage and Family Therapists

Advisory Committee—the Marriage and Family Therapy Advisory Committee.

Assessment—

1. the evaluation through the use of systems oriented methods and processes of:

- a. individual;
- b. couple;
- c. family; and
- d. larger systems;

2. for the purpose of:

- a. developing treatment plans;
- b. monitoring psychotherapeutic processes;
- c. measuring psychotherapeutic progress; and
- d. measuring psychotherapeutic outcomes;

3. such evaluation may include the use of:

- a. informal; or
- b. formal instruments;

4. for which the licensed marriage and family therapist has received;
 - a. appropriate training; and
 - b. supervision in:
 - i. individual settings; and
 - ii. group settings.

Board—the Louisiana Licensed Professional Counselors Board of Examiners

Marriage and Family Therapy—the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of:

1. individuals;
2. couples; and
3. families.

Qualified Supervision—the supervision of the clinical services of an applicant working toward licensure as a licensed marriage and family therapist:

1. in accordance with standards developed by the advisory committee; and
2. by an individual who has been recognized by the advisory committee as an LMFT-approved supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:154 (February 2003).

Chapter 33. Requirements for Licensure

§3301. General Provisions

A. The board upon recommendation of the marriage and family therapy advisory committee shall license to practice all persons who present satisfactory evidence of qualifications as specified in these Rules and regulations of the advisory committee. Such licensure shall be signed by the chairman and vice chairman of the board and the chairman and vice chairman of the advisory committee. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003).

§3303. Definitions

Allied Mental Health Discipline—includes, but may not be limited to, mental health counseling, social work, psychology, psychiatric nursing, and psychiatry.

Applicant—any individual seeking licensure who has submitted an official application and paid the application fee.

Appropriate Graduate Degree—a master's or doctoral degree from a college or university accredited by the Southern Association of Colleges and Schools (SACS), or a comparable accrediting body. If a discipline requires a specific terminal degree, that degree will be considered the appropriate degree.

Client Contact Hour—A 50-minute period a therapist spends working face-to-face with an individual, couple, family, or group.

Direct Client Contact—face-to-face (therapist and client) therapy with individuals, couples, families, and/or groups from a relational perspective. Activities such as telephone contact, case planning, observation of therapy, record

keeping, travel, administrative activities, consultation with community members or professionals, or supervision, are not considered direct client contact. Assessments done face-to-face and more than clerical in nature and focus may be counted as direct client contact. Psychoeducation may be counted as direct client contact.

Licensed Marriage and Family Therapist Intern or MFT Intern—a person who has earned a qualifying graduate degree and is receiving MFT approved postgraduate supervision.

Recognized Educational Institution—a postgraduate training institute or any regionally accredited educational institution that grants a master's or doctoral degree that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee or, until June 30, 2003, the standards for marriage and family counseling or therapy established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003).

§3305. General Licensing Requirements

- A. To become licensed, an applicant must:
1. be of good moral character;
 2. never have engaged in any practice or conduct that would be grounds for refusing to issue a license;
 3. be qualified for licensure pursuant to the requirements provided for in this Subpart;
 4. file a completed application form, accompanied by the required fee;
 5. ask that official transcripts be sent directly from the education institution for the applicants' files;
 6. provide a statement of practice (refer to the Appendix) for review and approval by the advisory committee. Applicants also licensed by one or more other allied mental health professions may integrate the requirements specific to licensed marriage and family therapy as determined by the advisory committee into any similar informed consent document required for licensure by such allied mental health professions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003).

§3307. Specific Licensing Requirements for

Applications Made on or before January 1, 2003

A. On applications postmarked on or before January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this section.

1. Specific requirements for §3307 may be met in one of four ways:
 - a. an appropriate graduate degree and two years of supervised clinical experience:
 - i. the applicant must have an appropriate graduate degree in:
 - (a). marriage and family therapy; or

- (b). an allied mental health discipline; and
- ii. have completed, after the receipt of a qualifying degree:
 - (a). at least two years of supervised clinical experience; and
 - (b). a minimum of 1000 hours of direct client contact;
 - (i.) in the practice of marriage and family therapy; or
 - (ii.) as part of the scope of practice of an allied mental health discipline;

b. persons with appropriate graduate degrees who do not meet the two years of supervised clinical experience may apply to become MFT interns:

- i. the minimum of 1000 hours of direct client contact may be met by:
 - (a). supervised clinical experience obtained in the degree program beyond that required for the degree; and
 - (b). supervision recommended for approval by the advisory committee;
- ii. applicants may not become licensed without two years of post-degree clinical experience;
- c. current clinical membership in the Association for Marriage and Family Therapy (AAMFT);
 - i. verification of such membership sent directly from AAMFT will be accepted as a presumption of having met both the educational and clinical experience required;
- d. a valid license from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana as specified in Subparagraph A.1.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:155 (February 2003).

§3309. Specific Licensing Requirements for Applications Made after January 1, 2003

A. For applications postmarked after January 1, 2003, the board upon recommendation of the advisory committee shall issue licenses to applicants who meet the requirements in this section.

1. Summary of Specific Requirements for §3309

a. Academic Requirements

- i. A master's or doctoral degree from a marriage and family therapy program that meets the standards established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as determined by the advisory committee in a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by COAMFTE as determined by the advisory committee; or
- ii. until June 30, 2003, a master's or doctoral degree in mental health counseling with a specialization in marriage and family counseling that substantially meets the standards established by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as determined by the ad hoc committee on licensure and supervision from a regionally accredited educational institution or training from a postgraduate training institute that meets the standards established by CACREP as

determined by the ad hoc committee on licensure and supervision; or

iii. an appropriate graduate degree in an allied mental health field from a regionally accredited educational institution with graduate level coursework equivalent to:

(a). a master's degree in marriage and family therapy that meets the standards established by COAMFTE as determined by the advisory committee and specified in §3311 Academic Requirements for Equivalency; or

(i). until June 30, 2003, the standards for marriage and family counseling or therapy established by CACREP as determined by the ad hoc committee on licensure and supervision and specified in §3311. Academic Requirements for Equivalency.

b. Supervision Requirements

i. Applicants must complete a minimum of two years of supervised work experience in marriage and family therapy as specified in §3315 Supervision Requirements after receipt of a qualifying degree.

c. Examination Requirements

i. Applicants must pass the national examination in marriage and family therapy as specified in §3313 Examination Requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003).

§3311. Academic Requirements for Equivalency after January 1, 2003

A. General

1. An applicant must have completed a minimum of 48 semester hours or its equivalent of graduate coursework.
2. One course is defined as 3 semester credits, 4 quarter credits, or 45 didactic contact hours (i.e., lecture hours).
3. If titles of academic courses are not self-explanatory, their content and relevance must be substantiated by the applicant through course descriptions in official school catalogs, bulletins, syllabi, or by other means approved by the advisory committee.
4. Undergraduate level courses will not meet academic requirements unless the applicant's official transcript clearly shows that the course was given graduate credit.
5. Only coursework taken for credit and receiving a passing grade will be accepted.
6. Coursework taken outside of a program of studies for which a degree was granted must receive an "A," "B," or "pass."
7. In a postgraduate training program, a minimum of 45 contact hours will be considered equivalent to a 3-hour semester credit course.
8. An applicant who wishes to make up academic deficiencies may propose a plan of additional coursework to the advisory committee.
9. An applicant who has completed a master's degree program in marriage and family therapy or counseling that was accredited by the Council on the Accreditation of Counseling and Related Educational Programs (CACREP) and has a minimum of six graduate courses in Marriage and Family Therapy, will be determined by the Advisory Committee and the Board to have met the equivalency of

standards established by the Commission on Accreditation for Marriage and Family Education (COAMFTE).

B. Specific equivalency requirements that meet the standards for marriage and family therapy established by COAMFTE as determined by the advisory committee.

1. Academic Course Content. An applicant with a graduate degree in an allied mental health field must have coursework in each of the following areas (one course equals three semester hours).

a. Theoretical Knowledge of Marriage and Family TherapyCa minimum of two courses.

i. Courses in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns. Students will be able to conceptualize and distinguish the critical epistemological issues in the profession of marriage and family therapy. Materials covered will provide a comprehensive survey and substantive understanding of the major models of marriage, couple, and family therapy.

b. Clinical Knowledge of Marriage and Family TherapyCa minimum of four courses.

i. Courses in this area shall contain such content as:

(a). couple and family therapy practice and be related conceptually to theory;

(b). contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

(c). a wide variety of presenting clinical problems;

(d). issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

(e). diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family TherapyCa minimum of two courses.

i. Courses in this area shall contain such content from a relational/systemic perspective as:

(a). psychopharmacology;

(b). physical health and illness;

(c). traditional psychodiagnostic categories; and

(d). the assessment and treatment of major mental health issues. One course must be in psychopathology.

d. Individual, Couple, and Family DevelopmentCa minimum of one course.

i. Courses in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and EthicsCa minimum of one course

i. Courses in this area shall contain such content as:

(a). professional identity, including professional socialization, scope of practice, professional organizations, licensure, and certification;

(b). ethical issues related to the profession of marriage and family therapy and the practice of individual,

couple, and family therapy. A generic course in ethics does not meet this standard;

(c). the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

(d). the interface between therapist responsibility and the professional, social, and political context of treatment.

f. ResearchCa minimum of one course.

i. Courses in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Additional LearningCa minimum of one course.

i. Courses in this area will augment students' specialized interest and background in individual, couple, and family therapy and may be chosen from coursework offered in a variety of disciplines.

2. Supervised Clinical PracticumC500 supervised direct client contact hours with 100 hours of face-to-face supervision. At least 250 of these hours will be with couples or families present in the therapy room.

a. The training of the supervisor must be equivalent to that of an AAMFT approved supervisor or AAMFT supervisor candidate.

b. If a student is simultaneously being supervised and having direct client contact, the time may be counted as both supervision time and direct client contact time.

C. Until June 30, 2003, specific equivalency requirements that meet the standards for marriage and family counseling/therapy established by CACREP as determined by the committee on mental health counseling licensure/supervision for the advisory committee.

1. Academic Course Content. To fulfill the CACREP requirements of the academic component for eligibility, the applicant must have completed a minimum of four courses from the following areas.

a. Foundations of Marital, Couple, and Family Counseling/Therapy:

i. the history of marital, couple, and family counseling/therapy including philosophical and etiological premises that define the practice of marital, couple, and family counseling/therapy;

ii. the structure and operations of professional organizations, preparation standards, and credentialing bodies pertaining to the practice of marital, couple, and family counseling/therapy (e.g., the International Association of Marriage and Family Counselors);

iii. the ethical and legal considerations specifically related to the practice of marital, couple, and family counseling/therapy (e.g., the *ACA and IAMFC Code of Ethics*);

iv. the implications of professional issues unique to marital, couple, and family counseling/therapy including recognition, reimbursement, and right to practice;

v. the role of marital, couple, and family counselors/therapists in a variety of practice settings and in relation to other helping professionals; and

vi. the role of racial, ethnic, and cultural heritage, nationality, socioeconomic status, family structure, age,

gender, sexual orientation, religious and spiritual beliefs, occupation, physical and mental status, and equity issues in marital, couple, and family counseling/therapy.

b. Contextual Dimensions of Marital, Couple, and Family Counseling/Therapy:

i. marital, couple, and family life cycle dynamics, healthy family structures, and development in a multicultural society, family of origin and intergenerational influences, cultural heritage, socioeconomic status, and belief systems;

ii. human sexuality issues and their impact on family and couple functioning, and strategies for their resolution; and

iii. societal trends and treatment issues related to working with diverse family systems (e.g., families in transition, dual-career couples, and blended families).

c. Knowledge and Skill Requirements for Marital, Couple, and Family Counselor/Therapists

i. family systems theories and other relevant theories and their application in working with couples and families, and other systems (e.g., legal, legislative, school and community systems) and with individuals;

ii. interviewing, assessment, and case management skills for working with individuals, couples, families, and other systems; and implementing appropriate skill in systemic interventions;

iii. preventive approaches for working with individuals, couples, families, and other systems such as pre-marital counseling, parenting skills training, and relationship enhancement;

iv. specific problems that impede family functioning, including issues related to socioeconomic disadvantage, discrimination and bias, addictive behaviors, person abuse, and interventions for their resolution; and

v. research and technology applications in marital, couple, and family counseling/therapy.

2. The supervised CACREP clinical practice must include:

a. a 100-hour practicum, of which 40 hours must be direct client contact; and

b. a 600-hour internship, of which 240 hours must be direct hour contact. The requirements for this internship are:

i. it must occur in a counseling setting, under the clinical supervision of a site supervisor;

ii. direct service clock hours are defined as work with couples, families, and individuals from a systems perspective;

iii. at least half the direct service clock hours must be with couples and family units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003).

§3313. Examination Requirements

A. The examination for licensure shall be the national marriage and family therapy examination as determined by the advisory committee.

B. Applicants for licensure are not eligible for examination until approved by the advisory committee.

C. Passing scores on the examination are determined by the testing agency.

D. Any person who fails an examination shall not be admitted to a subsequent examination for at least six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003).

§3315. Supervision Requirements

A. General Provisions

1. Applicants who apply before January 1, 2003, who meet the degree requirements but do not meet the experience requirements and applicants who apply after January 1, 2003, who meet the degree requirements must successfully complete two years of work experience in marriage and family therapy under qualified supervision in accordance with COAMFTE supervision standards as described in this section.

B. Definitions for Supervision

Co-Therapy Supervision Csupervision outside the session on cases in which the supervisor is a co-therapist.

Consultation Ca voluntary relationship between professionals of relative equal expertise or status wherein the person being consulted offers his/her best advice or information on an individual case or problem for use by the person asking for assistance. The consultant has no functional authority over the person asking for assistance, no legal or professional accountability for either the services performed or the welfare of the client. Consultation is not supervision. Experience under contract for consultation will not be credited toward fulfillment of supervision requirements.

Group Supervision Cface-to-face supervision of more than two MFT Interns and no more than six MFT Interns per group regardless of the number of supervisors. Group supervision provides the opportunity for the supervisees to interact with other supervisees and offers a different learning experience than that obtained from individual supervision.

Individual Supervision Cface-to-face supervision of one or two individuals by one supervisor.

LMFT-Approved Supervisor Can individual who has met requirements and takes responsibility for the practice of the supervisee during a specific time to enable the supervisee to meet the requirements of licensing. The supervisor is responsible for the delivery of services, the representation to the public of services, and the supervisor/supervisee relationship.

LMFT-Approved Supervisor Candidate Can individual under the supervision of an LMFT-approved supervisor for the purpose of qualifying as an LMFT-approved supervisor.

Live Supervision Csupervision (individual and/or group) in which the supervisor directly observes the case while the therapy is being conducted and has the opportunity to provide supervisory input during the session. When a supervisor conducts live supervision the time is counted as individual supervision for up to two interns providing therapy in the room with the client(s) and for up to two interns observing the therapy and interacting with the supervisor. The time is counted as group supervision when more than two MFT interns involved in direct client contact or more than two observers interacting with the supervisor are present, providing that there are no more than six interns involved.

*MFT Intern*Ca individual who has been recommended by the LMFT Advisory Committee and approved by the Board for supervision by an LMFT-approved supervisor.

*Qualified Supervision*Csupervision of the clinical services of an MFT intern by a supervisor recommended by the MFT Advisory Committee and approved by the Board.

*Supervision*Cthe professional relationship between a supervisor and supervisee that promotes the development of responsibility, skill, knowledge, and ethical standards in the practice of licensed marriage and family therapy. In addition to monitoring the MFT intern's supervised interaction with clients, the supervisor provides regular, face-to-face guidance and instruction. Supervision may include, without being limited to, the review of case presentations, audiotapes, videotapes, and direct observation.

*Supervision Candidate Plan*Ca written agreement on a form required by the advisory committee that establishes the supervisory framework for supervision of a licensed marriage and family therapist-in-training to become an LMFT approved supervisor.

*Supervised Experience Plan*Ca written agreement on a form required by the advisory committee that establishes the supervisory framework for postgraduate clinical experience and describes the expectations and responsibilities of the supervisor and the supervisee.

*Work Experience*Cincludes direct client contact and activities such as telephone contact, case planning, observation of therapy, record keeping, travel, administrative activities, consultation with community members or professionals, or supervision,

C. Supervision Requirements for Licensure

1. After receipt of a qualifying degree an applicant must complete a minimum of two years of work experience in marriage and family therapy that includes at least three thousand hours of clinical services to individuals, couples, or families.

a. At least 2000 hours of these hours must be direct clinical services.

b. The remaining 1000 hours may come from related experiences that may include but are not limited to workshops, public relations, writing case notes, consulting with referral sources, etc.

c. Supervisees should apply systemic theories and treatment with all clients and make every effort to work with as many couples and families as possible.

2. The required supervision must include at least 200 hours of supervision, of which at least 100 hours must be individual supervision. Up to 100 hours of supervision received during a graduate program that can be documented as systemic may be counted toward the 200 hours.

3. The work experience shall be obtained over not less than two years.

4. After the supervision plan is submitted and fees are paid, the board upon recommendation of the advisory committee will approve supervisors before supervision begins. Supervision hours may not be counted until after approval. Approval of a supervised experience plan does not mean that the supervised experience when completed will be automatically approved.

5. To meet the requirements of the supervised clinical experience, the supervisee must:

a. meet face-to-face with the supervisor for sustained and intense learning customarily for one hour per 10 hours of client contact, with once every other week, the minimum; and three times a week ordinarily the maximum;

b. file with the advisory committee a supervised experience plan as defined in §3315.B Definitions for Supervision.

6. It is recommended that the supervisory experience include sequentially at least two supervisors with diverse family therapy orientations, such as, but not limited to, narrative, MRI, Bowenian, structural, strategic, behavioral, or solution focused.

7. The following are not acceptable as approved supervision:

a. peer supervision (supervision by a person of equivalent, rather than superior, qualifications, status and experience);

b. supervision by current or former family members (such as parents, spouse, former spouse, siblings, children, cousins, present or former in-laws, aunts, uncles, grandparents, grandchildren, step-children), anyone sharing the same household, employees, or any other person where the nature of the personal relationship prevents or makes difficult the establishment of a professional relationship. For purposes of this rule, a supervisor shall not be considered an employee of the supervisee if the only compensation received by the supervisor consists of payment for actual supervisory hours;

c. administrative supervision (administrative supervision by an institutional director or executive, for example, conducted to evaluate job performance or for case management rather the clinical supervision of the quality of therapy given to clients);

d. a primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar;

e. consultation, staff development, or orientation to a field program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

D. Qualifications of a Supervisor and Supervisor Candidate

1. Supervision not provided by an LMFT-approved supervisor or an LMFT supervisor candidate as determined by the advisory committee will not be counted toward licensure.

2. A supervisor may not have more than 10 supervisees and/or supervisor candidates at the same time.

3. A person who wishes to become an LMFT-approved supervisor must be a licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements in one of two ways.

a. The applicant may meet the requirements by meeting the following requirements.

i. Coursework requirements:

(a). a one-semester graduate course in marriage and family therapy supervision from a regionally accredited institution; or

(b). an equivalent course of study consisting of a 15-hour didactic component and a 15-hour interactive component in the study of marriage and family therapy

supervision approved by the advisory committee. The interactive component must include a minimum of four persons.

ii. Experience Requirements

(a). has at least two years experience as a licensed Marriage and Family therapist.

iii. Supervision of Supervision

(a). Before January 1, 2004, an applicant must have 36 hours of supervision of supervision for marriage and family therapy from a person considered to be a qualified supervisor by the advisory committee.

(b). Before January 1, 2004, applicants with a degree in marriage and family therapy or its equivalent as determined by the advisory committee who meet the requirements in i. and ii. in this Subparagraph will not be required to obtain the 36 hours of supervision of supervision.

(c). After January 1, 2004, supervision of supervision must be taken from an LMFT-approved supervisor.

b. Designation as an AAMFT Approved Supervisor qualifies a person to become an LMFT approved supervisor. Documentation must be submitted and recommended by the advisory committee for Board approval.

4. LMFT Candidate Supervisor or

a. A person who wishes to become an LMFT approved supervisor in-training must submit an application provided by the board upon recommendation of the advisory committee that:

i. includes documentation that he has at least two years experience as a Licensed Marriage and Family Therapist;

ii. either documents that he or she has met the coursework and interactional requirement specified in Subparagraph D.3.a.i. or proposes how this requirement shall be met;

iii. includes the name of the LMFT-approved supervisor who will be supervising his or her supervision and the approximate dates such supervision will begin and end.

b. The advisory committee will review the application and inform the individual in writing that the proposed supervision of supervision arrangement either has been approved or rejected. Any rejection letter will outline the reasons for rejection.

c. An advisory committee member cannot participate in deliberations or votes on any applicant who has been supervised by that advisory committee member.

d. Upon completion of the required hours of supervision of supervision, the supervisor-in-training must submit an application to become an LMFT approved supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003).

Chapter 35. Renewal of License

§3501. General Provisions

A. Licenses shall be renewed every two years in January. The licensee shall submit an application form and payment of the renewal fee. Renewals must be postmarked no later than December 31. Upon approval by the advisory

committee, the board shall issue a document renewing the license for two years.

B. A license not renewed shall lapse December 31. To renew a lapsed license, the licensee must pay all fees in arrears and provide documentation of the continuing education requirements. A lapsed license not renewed within two years will expire and the individual must re-apply under the current Rules for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003).

§3503. Continuing Education Requirements

A. General Guidelines

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every two years.

2. One continuing education unit (CEU) is equivalent to one clock hour.

3. Accrual of continuing education begins only after the date the license was issued.

4. Continuing education hours accrued beyond the required 40 clock hours may not be applied toward the next renewal period. Renewal periods run from January 1 to December 31

5. The licensee is responsible for keeping a personal record of his/her continuing education hours until official notification of renewal is received. Do not forward documentation of continuing education hours to the board office as they are accrued.

6. At the time of renewal 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Licensees audited will be requested by letter to submit documentation as specified in §3503.B of their continuing education hours.

7. Licensees will be asked in the renewal application to note any changes in areas of expertise. The advisory committee, at its discretion, may require the licensee to present satisfactory documentation supporting these changes.

8. A licensee must accrue 40 clock hours of training in ethics that specifically addresses ethics for licensed marriage and family therapy as defined in Subparagraph C.3.e every renewal period. A generic ethics class will not be acceptable.

9. Those licensed marriage and family therapists who hold another license that requires continuing education hours may count the continuing education hours obtained for that license toward their LMFT CEU requirements. Of the 40 CEU's submitted, however, 20 hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three hours of ethics specific to marriage and family therapy.

10. The approval of and requirements for continuing education are specified in Subsection C.

B. Types of documentation needed for continuing education audit:

1. copy of certificate of attendance for workshops, seminars, or conventions;

2. copy of transcript for coursework taken for credit/audit;

3. letter from workshop/convention coordinator verifying presentation;

4. copy of article plus the table of contents of the journal it appears in, copy of chapter plus table of contents for chapter authored for books, title page and table of contents for authoring or editing books, letter from conference coordinator or journal editor for reviewing refereed workshop presentations or journal articles.

C. Approved Continuing Education for Licensed Marriage and Family Therapists

1. Continuing education requirements are meant to ensure personal and professional development throughout an individual's career.

2. An LMFT may obtain the 40 clock hours of continuing education through the options listed. All continuing education hours may be obtained through Subparagraph a or 20 of the 40 hours may be obtained through Subparagraph b:

a. Direct participation in a structured educational format as a learner in continuing education workshops and presentations or in graduate coursework (either for credit or audit).

i. The advisory committee will accept workshops and presentations approved by the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions including the Louisiana Association for Marriage and Family Therapy (LAMFT). Contact them directly to find out which organizations, groups, or individuals are approved providers graduate coursework either taken for credit or audit must be from a regionally accredited college or university and in the areas of marriage and family therapy described in Paragraph C.3.

ii. Licensees may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner. Credit cannot be given to persons who leave early from an approved session or to persons who do not successfully complete graduate coursework.

iii. Continuing education taken from organizations, groups, or individuals not holding provider status by one of the associations listed in Clause i. will be subject to approval by the advisory committee at the time of renewal.

(a). The advisory committee will not pre-approve any type of continuing education.

(b). The continuing education must be in one of the seven approved content areas listed in §3503.C and given by a qualified presenter.

(c). A qualified presenter is considered to be someone at the master's level or above trained in marriage and family therapy or another appropriate mental health field.

(d). One may receive one clock hour of continuing education for each hour of direct participation in a structured educational format as a learner.

(e). Credit cannot be granted for business/governance meetings; breaks; and social activities including meal functions, except for the actual time of an educational content speaker.

(f). Credit may not be given for marketing the business aspects of one's practice, time management, supervisory sessions, staff orientation, agency activities that

address procedural issues, personal therapy, or other methods not structured on sound educational principles or for content contrary to the LMFT Code of Ethics (Chapter 43).

b. Optional Ways to Obtain Continuing Education (20 Hours Maximum)

i. Licensees may receive one clock hour of continuing education for each hour of direct work in:

(a). teaching a marriage and family therapy course (10 hours maximum) in an area as described in Paragraph C.3 in an institution accredited by a regional accrediting association. Continuing education hours may be earned only for the first time the individual teaches the course, or

(b). authoring, editing, or reviewing professional manuscripts or presentations (10 hours maximum) in an area of marriage and family therapy as described in Paragraph C.3. Articles must be published in a professional refereed journal.

ii. Presentations at workshops, seminars, symposia, and meetings in an area of marriage and family therapy as described in Paragraph C.3 may count for up to 10 hours maximum at a rate of two clock hours per one-hour presentation. Presenters must meet the qualifications stated in Subparagraph 2.a. The presentation must be to the professional community, not to the lay public or a classroom presentation.

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following seven areas.

a. Theoretical Knowledge of Marriage and Family Therapy. Continuing education in this area shall contain such content as the historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy and will be related conceptually to clinical concerns.

b. Clinical Knowledge of Marriage and Family Therapy: Continuing education in this area shall contain such content as:

i. couple and family therapy practice and be related conceptually to theory;

ii. contemporary issues, which include but are not limited to gender, violence, addictions, and abuse, in the treatment of individuals, couples, and families from a relational/systemic perspective;

iii. a wide variety of presenting clinical problems;

iv. issues of gender and sexual functioning, sexual orientation, and sex therapy as they relate to couple, marriage and family therapy theory and practice;

v. diversity and discrimination as it relates to couple and family therapy theory and practice.

c. Assessment and Treatment in Marriage and Family Therapy. Continuing education in this area shall contain such content from a relational/systemic perspective as psychopharmacology, physical health and illness, traditional psychodiagnostic categories, and the assessment and treatment of major mental health issues.

d. Individual, Couple, and Family Development. Continuing education in this area shall contain such content as individual, couple, and family development across the lifespan.

e. Professional Identity and Ethics in Marriage and Family Therapy. Continuing education in this area shall contain such content as:

i. professional identity, including professional socialization, scope of practice, professional organizations, licensure and certification;

ii. ethical issues related to the profession of marriage and family therapy and the practice of individual, couple and family therapy. Generic education in ethics does not meet this standard;

iii. the AAMFT Code of Ethics, confidentiality issues, the legal responsibilities and liabilities of clinical practice and research, family law, record keeping, reimbursement, and the business aspects of practice;

iv. the interface between therapist responsibility and the professional, social, and political context of treatment.

f. Research in Marriage and Family Therapy. Continuing education in this area shall include significant material on research in couple and family therapy; focus on content such as research methodology, data analysis and the evaluation of research, and include quantitative and qualitative research.

g. Supervision in Marriage and Family Therapy: Continuing education in this area include studies in theory and techniques of supervision as well as ethical and legal issues, case management, and topics relative to the specific supervised training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003).

Chapter 37. Reciprocity and Provisional Licenses

§3701. States, Territories, and Commonwealths

A. Upon application accompanied by the required fee:

1. the board through the advisory committee may issue a license to any person who has a valid license as a marriage and family therapist from a licensing body that requires standards substantially equivalent to the licensing requirements for licensed marriage and family therapists in Louisiana;

2. the board through the advisory committee may develop Rules to provide for the issuance of provisional licenses for licensed marriage and family therapists for up to one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003).

Chapter 39. Disciplinary Proceedings

§3901. Causes for Administrative Action

A. The board, upon recommendation of the advisory committee, after due notice and hearing as set forth herein and the Administrative Procedure Act, R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist on a finding that the person has violated R.S. 37: 1101-1122, any of the Rules, regulations, and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the

licensed marriage and family therapist or applicant for licensure. Additionally, the Board, upon recommendation of the advisory committee, may withhold, deny, revoke, or suspend any license issued or applied for, or otherwise discipline or an LMFT as provided by other applicable state or federal laws, including but not limited to the following violations:

1. failure to pay court-ordered child support (RS 37:2952 et seq.);

2. failure to pay certain student loans (RS 37:2951 et seq.);

3. failure to report suspected cases of child abuse or neglect (RS 14:403 et seq.);

4. failure to report suspected cases of abuse of the elderly (RS 14:403.2 et seq.);

5. failure to maintain patient records as required by law (R.S. 40:1299.96 et seq.).

B. Sometimes hereinafter, where the context allows, a licensed marriage and family therapist or applicant for licensure may be referred to as a licensee or applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 29:162 (February 2003).

§3903. Disciplinary Process and Procedures

A. The purpose of the following Rules and regulations is to supplement and effectuate the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These Rules and regulations are not intended to amend or repeal the provisions of the Administrative Procedure Act, and to the extent any of these Rules and regulations are in conflict therewith, the provisions of the Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict evidentiary Rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations and ethical standards for licensed marriage family therapy promulgated by the board for the advisory committee, or prior Final Decisions and/or Consent Orders involving the licensed marriage and family therapist or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003).

§3905. Initiation of Complaints

A. Any person or the advisory committee on their own initiative may initiate complaints.

B. All complaints shall be addressed "confidential" to the ad hoc Committee for Disciplinary Affairs (hereafter referred to as the disciplinary committee) and shall be sent to the board office. A member of the advisory committee shall

be appointed to serve on the ad hoc Committee for Disciplinary Affairs, by the chair of the Board, and shall be empowered to act on behalf of the Advisory committee. He/she shall concur or disagree with the recommendation of the disciplinary committee chair and such concurrence or disagreement shall constitute the official recommendation of the advisory committee as to the complaint in question. The disciplinary committee shall convey the complaint to the board. By a simple majority, the Disciplinary Committee shall vote to investigate or deny the charge. If a denial, the chair of the Disciplinary Committee shall prepare the letters of denial. If an agreement to investigate, the board shall request that the Disciplinary Committee notify the person that allegations have been made that he/she may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he/she must respond in writing to the Disciplinary Committee within a specified time period. A response is to be made to the disciplinary committee at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his/her response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required. The Disciplinary Committee shall inform the board of its decision.

C. Pursuant to its authority to regulate this industry, the board, upon recommendation of the advisory committee through its Disciplinary Committee, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the Rules and regulations or ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee, or prior final decisions and/or consent orders involving the licensed marriage and family therapist or applicant for licensure. The subpoenaed confidential or privileged records of a patient or client are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003).

§3907. Informal Disposition of Complaints

A. The board, upon recommendation of the Disciplinary Committee and the person accused of a violation, may settle some complaints informally without a formal hearing. The disciplinary committee shall guide cases through any informal process, and, failing resolution, may recommend a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For less serious complaints, the disciplinary committee may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The disciplinary committee may hold a conference with the person in lieu of, or in addition to,

correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The board must consider the nature of the alleged offense and the evidence before it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:163 (February 2003).

§3909. Formal Hearing

A. The board upon recommendation of the Disciplinary Committee has the authority, granted by R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license upon recommendation of the advisory committee to practice as a licensed marriage and family therapist or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;

2. the right of notice;

3. a statement of what accusations have been made;

4. the right to present evidence and to cross-examine; and

5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The disciplinary committee receives a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

2.a. The disciplinary counsel investigates the complaint to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member, other than disciplinary committee members may communicate with any party to a proceeding or his/her representative concerning any issue of fact or law involved in this stage of the proceeding.

b. A decision to initiate a formal complaint or charge may be made by the board if one or more of the following conditions exists:

i. the complaint is sufficiently serious;

ii. the person fails to respond to the Ad Hoc Disciplinary Affairs Committee's correspondence concerning the complaint;

iii. the person's response to the Ad Hoc Disciplinary Affairs Committee letter or investigation demand is not convincing that no action is necessary;

iv. an informal approach is used, but fails to resolve all of the issues.

3. A Notice of Hearing is issued pursuant to R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the Rules and regulations and ethical standards for licensed marriage and family therapists promulgated by the board for the advisory committee thereto, or prior final decisions and/or consent orders involving the person.

4. The board chair or disciplinary counsel sets a time and place for a hearing.

5.a. At least 20 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person in absentia, in the event that certified mail at the last known address is unsuccessful.

b. The content of the charges limits the scope of the hearing and the evidence that may be introduced. The charges may be amended at any time up to 10 days prior to the date set for the hearing.

c. If the Disciplinary Committee is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the Board chair and may only be granted for compelling reasons.

7.a. The board chair or disciplinary counsel issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for any other party. Subpoenas include:

i. a subpoena requiring a person to appear and give testimony; and

ii. a subpoena *dues tecum*, which requires that a person produce books, records, correspondence, or other materials over which he/she has custody.

b. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours prior to the hearing.

8. a. The hearing is held, at which time the board's primary role is to hear evidence and argument and to reach a decision. Any board member, who, because of bias, interest, or other conflict is unable to participate in the hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. The board shall be assisted and advised at the hearing by its general counsel, who shall not participate in any other manner in the

investigation or prosecution of charges. The general counsel shall also attend the board's deliberations, advise the board at such deliberations, and assist the board with development and drafting of its findings.

b. The disciplinary counsel who conducted the investigation represents the board and presents evidence that disciplinary action should be taken against the person. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

c. Evidence includes the following:

i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by the requesting party);

ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

iii. visual, physical and illustrative evidence;

iv. admissions, which are written or oral statements of a party made either before or during the hearing;

v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, an affirmation may be substituted.

9. The board chair presides as chair of the board over all hearings for licensed marriage and family therapists. The customary order of proceedings at a hearing is as follows.

a. The disciplinary counsel makes an opening statement of what he/she intends to prove, and what action, he/she wants the board to take.

b. The person, or his/her attorney, makes an opening statement, explaining why he/she believes that the charges against him/her are not legally founded.

c. The disciplinary counsel presents the case against the person.

d. The person, or his/her attorney, cross-examines.

e. The person presents evidence.

f. The disciplinary counsel cross-examines.

g. The rebuts the person's evidence.

10. Both parties make closing statements. The disciplinary counsel makes the initial closing statement and any final statement.

11. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally, and become part of the record of the proceeding.

12.a. The record of the hearing shall include:

i. all papers filed and served in the proceeding;

b. all documents and/or other materials accepted as evidence at the hearing;

ii. statements of matters officially noticed;

c. notices required by the statutes or Rules; including notice of hearing;

d. affidavits of service or receipts for mailing or process or other evidence of service;

e. stipulations, settlement agreements or consent orders, if any;

i. records of matters agreed upon at a prehearing conference;

- ii. orders of the board and its final decision;
- iii. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
- iv. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

f. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

13.a. The decision of the board shall be reached according to the following process.

- i. Determine the facts at issue on the basis of the evidence submitted at the hearing.
- ii. Determine whether the facts in the case support the charges brought against the person.
- iii. Determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or Rules and regulations and ethical standards for licensed marriage and family therapy promulgated by the board for the advisory committee.

b. Deliberation

- i. The board will deliberate in closed session.
- ii. The advisory committee shall make its recommendation as to each charge presented.
- iii. The board will vote on each charge as to whether the charge has been supported by the evidence. (The standard will be *preponderance of the evidence*).
- iv. After considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed marriage and family therapist or applicant for licensure.

v. The board by affirmative majority vote may vote to withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37, Chapter 13, or otherwise discipline a licensed marriage and family therapist or applicant.

c. Sanctions against the person who is party to the proceedings are based upon findings of fact and conclusions of law determined as a result of the hearing. The party is notified by certified mail of the final decision of the board.

14. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgment in such manner and form as it and the advisory committee deem proper if such orders and judgments are not consent orders or compromise judgments.

15.a. The board may reconsider a matter that it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the board reconsider the decision.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within 10 days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following.

i. The board's decision is clearly contrary to the law and evidence.

ii. There is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing.

iii. There is a showing that issues not previously considered ought to be examined in order to dispose of the case properly.

iv. It would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:163 (February 2003).

§3911. Consent Order

A. The board may issue an order involving some type of disciplinary action with the consent of the person. A consent order requires a simple majority of the board. This consent order is not the result of the board's deliberation, but rather the board's acceptance upon recommendation of disciplinary committee to the board of an agreement reached between the board's agents and the person. The board issues the consent order to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:165 (February 2003).

§3913. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:165 (February 2003).

§3915. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified, restricted delivery mail.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action by the board that could eventually lead to the withholding, denial, revocation or suspension of his/her license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:165 (February 2003).

§3917. Judicial Review of Adjudication

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the 19th Judicial District Court for the parish of East Baton Rouge, provided that such petition for judicial review is filed within thirty days after receipt of the notice of the decision of the board. If judicial review is granted, the board's decision remains enforceable in the interim unless the 19th Judicial District Court orders a stay. Pursuant to the applicable section of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

§3919. Further Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

§3921. Reinstatement of Suspended or Revoked License

A. The board is authorized to suspend the license of a licensed marriage and family therapist for a period not exceeding two years. At the end of this period, the Board shall re-evaluate the suspension and may reinstate or revoke the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

§3923. Declaratory Statements

A. The board upon recommendation of the advisory committee may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101 et seq., the Rules, regulations, and ethical standards promulgated by the board for the advisory committee.

1. A request for declaratory statement is made in the form of a petition to the advisory committee. The petition should include at least:

- a. the name and address of the petitioner;
- b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and
- c. a concise statement of the manner in which the petitioner is aggrieved by the statute, Rules and regulations,

or ethical standards by its potential application to him in which he is uncertain of its effect.

2. The advisory committee shall consider the petition within a reasonable period of time, taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

§3925. Injunction

A. The board upon recommendation of the advisory committee may, through the Louisiana attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by R.S. 37, Chapter 13.

B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by R.S. 37, Chapter 13, the court, may enter a decree enjoining the defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of §1325, a court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all other penalties and other remedies provided in R.S. 37, Chapter 13.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

Chapter 41. Informed Consent

§4101. General Provisions

A. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures before the formal therapeutic process begins. Information provided to clients by licensed marriage and family therapists about the treatment process shall include, but is not limited to, the therapist's statement of practice as outlined in the Appendix. The therapist should be sure that the client understands all information provided before asking for consent to treatment. The content of informed consent may vary depending on the client and treatment plan; however, informed consent generally necessitates that the client:

1. has the capacity to consent;
2. has been adequately informed of the ethical and practical components of treatment processes and procedures, including but not limited to, the use of audio or video taping, or the use of observers, supervisors, or therapy teams during therapy;
3. has been adequately informed of potential therapy outcomes, including the risks and benefits of treatment, not only for recognized approaches, but also for approaches for which generally recognized standards do not yet exist;
4. has freely and without undue influence expressed consent; and
5. has provided consent that is appropriately documented.

B. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:166 (February 2003).

Chapter 43. Privileged Communications

§4301. Privileged Communication with Clients

A. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality in the therapeutic process and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures. Licensed marriage and family therapists also shall be aware of specific ethical requirements concerning licensed marriage and family therapy as specified in the Code of Ethics (Chapter 47) and in §4301.C.

B. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, court order, or where mandated or specifically permitted by law, or reasonably necessary to protect the client or other parties from a clear and imminent threat of serious physical harm. Verbal authorization may be sufficient in emergency situations or where otherwise permitted by law.

C. Licensed marriage and family therapists shall be cognizant of and adhere to any confidentiality requirement that may differ from requirements in other licenses they hold. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client within the system of which they are working as well as the confidences of the system.

1. When providing couple, family, or group treatment, a licensed marriage and family therapist shall not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver.

2. In the context of couple, family, or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003).

Chapter 45. Exemptions

§4501. Exemptions

A. No person shall be required to obtain a license as a licensed marriage and family therapist. The practice of marriage and family therapy is not prohibited by Act 1195. As stated in R.S. 37:1122(A), the only prohibition is the use of the title "licensed marriage and family therapist".

B. Nothing in this Chapter shall prevent qualified members of other professional groups as defined by the board upon recommendation of the advisory committee including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian Science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. However, no such person shall use the title "licensed marriage and family therapist". (R.S. 37:1121)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003).

Chapter 47. Code of Ethics

§4701. General

A. The Marriage and Family Therapy Advisory Committee strives to honor the public trust in licensed marriage and family therapists by setting the standards for ethical practice as described in this code of ethics.

B. Licensed marriage and family therapists have an obligation to be familiar with this code of ethics and its application to their professional services. They also must be familiar with any applicable ethical codes that govern other licensure that they hold or are responsible for through certification or membership in professional organizations. Lack of awareness or misunderstanding of an ethical standard is not a defense to a charge of unethical conduct.

C. These ethical standards govern the practice of licensed marriage and family therapy and professional functioning of the advisory committee and shall be enforced by the board through the advisory committee.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:167 (February 2003).

§4703. Resolving Ethical Issues

A. The absence of an explicit reference to a specific behavior or situation in the Code does not mean that the behavior is ethical or unethical. The standards are not exhaustive. Licensed marriage and family therapists shall consult with other licensed marriage and family therapists who are knowledgeable about ethics, with colleagues, with LMFT-approved supervisors, or with appropriate authorities when:

1. they are uncertain if the ethics of a particular situation or course of action is in violation of this code; or

2. provisions in the ethical codes that regulate licensure that they may hold in other professions differs from provisions in this code; or

3. provisions in the ethical codes that regulate their membership or certification in a professional organization differs from provisions in this code.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:1667 (February 2003).

§4705. Responsibility to Clients

A. Licensed marriage and family therapists advance the welfare of families and individuals. They respect the rights of those persons seeking their assistance and make reasonable efforts to ensure that their services are used appropriately.

B. Licensed marriage and family therapists provide professional assistance to persons without discrimination on the basis of race, age, ethnicity, socioeconomic status, disability, gender, health status, religion, national origin, or sexual orientation.

C. Licensed marriage and family therapists obtain appropriate informed consent to therapy or related procedures early in the therapeutic relationship, usually before the therapeutic relationship begins, and use language that is reasonably understandable to clients. The licensed marriage and family therapist will provide all clients with a statement of practice subject to review and approval by the advisory committee (See Appendix). The content of informed consent may vary depending upon the therapist's areas of expertise, the client(s) and treatment plan.

1. Informed consent generally necessitates that the client:

- a. has the capacity to consent;
- b. has been adequately informed of significant information concerning treatment processes and procedures;
 - i. has been adequately informed of potential risks and benefits of treatments for which generally recognized standards do not yet exist;
- c. has freely and without undue influence signed a statement of practice.

2. When persons, due to age or mental status, are legally incapable of giving informed consent, licensed marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.

D. Licensed marriage and family therapists are aware of their influential positions with respect to clients, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid conditions and multiple relationships with clients that could impair professional judgment or increase the risk of exploitation. Such relationships include, but are not limited to, business or close personal relationships with a client or the client's immediate family. When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists take appropriate precautions.

E. Sexual intimacy with clients is prohibited.

F. Sexual intimacy with former clients is likely to be harmful and is therefore prohibited for two years following the termination of therapy or last professional contact. In an effort to avoid exploiting the trust and dependency of clients, licensed marriage and family therapists should not engage in sexual intimacy with former clients after the two years following termination or last professional contact. Should therapists engage in sexual intimacy with former clients following two years after termination or last professional contact, the burden shifts to the therapist to demonstrate that there has been no exploitation or injury to the former client or to the client's immediate family.

G. Licensed marriage and family therapists comply with applicable laws regarding the reporting of alleged unethical conduct.

H. Licensed marriage and family therapists do not use their professional relationships with clients to further their own interests.

I. Licensed marriage and family therapists respect the rights of clients to make decisions and help them to understand the consequences of these decisions. Therapists clearly advise the clients that they have the responsibility to make decisions regarding relationships such as cohabitation, marriage, divorce, separation, reconciliation, custody, and visitation.

J. Licensed marriage and family therapists continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

K. Licensed marriage and family therapists assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

L. Licensed marriage and family therapists do not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment.

M. Licensed marriage and family therapists obtain written informed consent from clients before videotaping, audio recording, or permitting third-party observation.

N. Licensed marriage and family therapists, upon agreeing to provide services to a person or entity at the request of a third party, clarify, to the extent feasible and at the outset of the service, the nature of the relationship with each party and the limits of confidentiality.

AUTHORITY NOTE: In accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated in accordance with the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:168 (February 2003).

§4707. Confidentiality

A. Licensed marriage and family therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard the confidences of each individual client.

B. Licensed marriage and family therapists disclose to clients and other interested parties, as early as feasible in their professional contacts, the nature of confidentiality and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures.

C. Licensed marriage and family therapists do not disclose client confidences except by written authorization or waiver, or where mandated or permitted by law. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law, specifically in instances of danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect. When providing couple, family or group treatment, the therapist does not disclose information outside the treatment context without a written authorization from each individual competent to execute a waiver. In the context of couple,

family or group treatment, the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

D. Licensed marriage and family therapists use client and/or clinical materials in teaching, writing, consulting, research, and public presentations only if a written waiver has been obtained in accordance with this section, or when appropriate steps have been taken to protect client identity and confidentiality.

E. Licensed marriage and family therapists store, safeguard, and dispose of client records in ways that maintain confidentiality and in accord with applicable laws and professional standards.

F. Subsequent to the therapist moving from the area, closing the practice, or upon the death of the therapist, a marriage and family therapist arranges for the storage, transfer, or disposal of client records in ways that maintain confidentiality and safeguard the welfare of clients.

G. Licensed marriage and family therapists, when consulting with colleagues or referral sources, do not share confidential information that could reasonably lead to the identification of a client, research participant, supervisee, or other person with whom they have a confidential relationship unless they have obtained the prior written consent obtained in accordance with this section of the client, research participant, supervisee, or other person with whom they have a confidential relationship. Information may be shared only to the extent necessary to achieve the purposes of the consultation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:168 (February 2003).

§4709. Professional Competence and Integrity

A. Licensed marriage and family therapists maintain high standards of professional competence and integrity.

B. Licensed marriage and family therapists pursue knowledge of new developments and maintain competence in licensed marriage and family therapy through education, training, or supervised experience.

C. Licensed marriage and family therapists maintain adequate knowledge of and adhere to applicable laws, ethics, and professional standards.

D. Licensed marriage and family therapists seek appropriate professional assistance for their personal problems or conflicts that may impair work performance or clinical judgment.

E. Licensed marriage and family therapists do not provide services that create a conflict of interest that may impair work performance or clinical judgment.

F. Licensed marriage and family therapists, as presenters, teachers, supervisors, consultants and researchers, are dedicated to high standards of scholarship, present accurate information, and disclose potential conflicts of interest.

G. Licensed marriage and family therapists maintain accurate and adequate clinical and financial records.

H. While developing new skills in specialty areas, licensed marriage and family therapists take steps to ensure the competence of their work and to protect clients from possible harm. Licensed marriage and family therapists

practice in specialty areas new to them only after appropriate education, training, or supervised experience.

I. Licensed marriage and family therapists do not engage in sexual or other forms of harassment of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

J. Licensed marriage and family therapists do not engage in the exploitation of clients, students, trainees, supervisees, employees, colleagues, or research subjects.

K. Licensed marriage and family therapists do not give to or receive from clients:

1. gifts of substantial value; or
2. gifts that impair the integrity or efficacy of the therapeutic relationship.

L. Licensed marriage and family therapists do not diagnose, treat, or advise on problems outside the recognized boundaries of their competencies.

M. Licensed marriage and family therapists make efforts to prevent the distortion or misuse of their clinical and research findings.

N. Licensed marriage and family therapists, because of their ability to influence and alter the lives of others, exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

O. To avoid a conflict of interests, licensed marriage and family therapists who treat minors or adults involved in custody or visitation actions may not also perform forensic evaluations for custody, residence, or visitation of the minor. The marriage and family therapist who treats the minor may provide the court or mental health professional performing the evaluation with information about the minor from the marriage and family therapist's perspective as a treating marriage and family therapist, so long as the marriage and family therapist does not violate confidentiality.

P. Licensed marriage and family therapists are in violation of this Code and subject to revocation or suspension of licensure or other appropriate action by the board through the advisory committee if they:

1. are convicted of any felony;
2. are convicted of a misdemeanor related to their qualifications or functions;
3. engage in conduct which could lead to conviction of a felony, or a misdemeanor related to their qualifications or functions;
4. are expelled from or disciplined by professional organizations;
5. have their licenses or certificates suspended or revoked or are otherwise disciplined by other regulatory bodies;
6. continue to practice licensed marriage and family therapy while no longer competent to do so because they are impaired by physical or mental causes or the abuse of alcohol or other substances; or
7. fail to cooperate with the board through the advisory committee at any point from the inception of an ethical complaint through the completion of all proceedings regarding that complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:169 (February 2003).

§4711. Responsibility to Students and Supervisees

A. Licensed marriage and family therapists do not exploit the trust and dependency of students and supervisees.

B. Licensed marriage and family therapists are aware of their influential positions with respect to students and supervisees, and they avoid exploiting the trust and dependency of such persons. Licensed marriage and family therapists, therefore, make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, licensed marriage and family therapists take appropriate precautions.

C. Licensed marriage and family therapists do not provide therapy to current students or supervisees.

D. Licensed marriage and family therapists do not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the therapist and student or supervisee. Should a supervisor engage in sexual activity with a former supervisee, the burden of proof shifts to the supervisor to demonstrate that there has been no exploitation or injury to the supervisee.

E. Licensed marriage and family therapists do not permit students or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

F. Licensed marriage and family therapists take reasonable measures to ensure that services provided by supervisees are professional.

G. Licensed marriage and family therapists avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the therapist's objectivity. When such situations cannot be avoided, therapists take appropriate precautions to maintain objectivity. Examples of such relationships include, but are not limited to, those individuals with whom the therapist has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.

H. Licensed marriage and family therapists do not disclose supervisee confidences except by written authorization or waiver, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:170 (February 2003).

§4713. Responsibility to Research Participants

A. Investigators respect the dignity and protect the welfare of research participants, and are aware of applicable laws and regulations and professional standards governing the conduct of research.

B. Investigators are responsible for making careful examinations of ethical acceptability in planning studies. To the extent that services to research participants may be compromised by participation in research, investigators seek the ethical advice of qualified professionals not directly

involved in the investigation and observe safeguards to protect the rights of research participants.

C. Investigators requesting participant involvement in research inform participants of the aspects of the research that might reasonably be expected to influence willingness to participate. Investigators are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services, or have impairments which limit understanding and/or communication, or when participants are children.

D. Investigators respect each participant's freedom to decline participation in or to withdraw from a research study at any time. This obligation requires special thought and consideration when investigators or other members of the research team are in positions of authority or influence over participants. Licensed marriage and family therapists, therefore, make every effort to avoid multiple relationships with research participants that could impair professional judgment or increase the risk of exploitation.

E. Information obtained about a research participant during the course of an investigation is confidential unless there is a waiver previously obtained in writing. When the possibility exists that others, including family members, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:170 (February 2003).

§4715. Responsibility to the Profession

A. Licensed marriage and family therapists respect the rights and responsibilities of professional colleagues and participate in activities that advance the goals of the profession.

B. Licensed marriage and family therapists remain accountable to the standards of the profession when acting as members or employees of organizations. If the mandates of an organization with which a licensed marriage and family therapist is affiliated, through employment, contract or otherwise, conflict with the LMFT Code of ethics licensed marriage and family therapists make known to the organization their commitment to the LMFT Code of ethics and attempt to resolve the conflict in a way that allows the fullest adherence to the Code of ethics.

C. Licensed marriage and family therapists assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.

D. Licensed marriage and family therapists do not accept or require authorship credit for a publication based on research from a student's program, unless the therapist made a substantial contribution beyond being a faculty advisor or research committee member. Coauthorship on a student thesis, dissertation, or project should be determined in accordance with principles of fairness and justice.

E. Licensed marriage and family therapists who are the authors of books or other materials that are published or distributed do not plagiarize or fail to cite persons to whom credit for original ideas or work is due.

F. Licensed marriage and family therapists who are the authors of books or other materials published or distributed by an organization take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

G. Licensed marriage and family therapists participate in activities that contribute to a better community and society, including devoting a portion of their professional activity to services for which there is little or no financial return.

H. Licensed marriage and family therapists are concerned with developing laws and regulations pertaining to licensed marriage and family therapy that serve the public interest, and with altering such laws and regulations that are not in the public interest.

I. Licensed marriage and family therapists encourage public participation in the design and delivery of professional services and in the regulation of practitioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 29:170 (February 2003).

§4717. Financial Arrangements

A. Licensed marriage and family therapists make financial arrangements with clients, third-party payors, and supervisees that are reasonably understandable and conform to accepted professional practices.

B. Licensed marriage and family therapists do not offer or accept kickbacks, rebates, bonuses, or other remuneration for referrals; fee-for-service arrangements are not prohibited.

C. Prior to entering into the therapeutic or supervisory relationship, licensed marriage and family therapists clearly disclose and explain to clients and supervisees:

1. all financial arrangements and fees related to professional services, including charges for canceled or missed appointments;

2. the use of collection agencies or legal measures for nonpayment; and

3. the procedure for obtaining payment from the client, to the extent allowed by law, if payment is denied by the third-party payor;

4. once services have begun, therapists provide reasonable notice of any changes in fees or other charges.

D. Licensed marriage and family therapists give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When such action is taken, therapists will not disclose clinical information.

E. Licensed marriage and family therapists represent facts truthfully to clients, third party payors, and supervisees regarding services rendered.

F. Licensed marriage and family therapists ordinarily refrain from accepting goods and services from clients in return for services rendered. Bartering for professional services may be conducted only if:

1. the supervisee or client requests it;
2. the relationship is not exploitative;
3. the professional relationship is not distorted; and
4. a clear written contract is established.

G. Licensed marriage and family therapists may not withhold records under their immediate control that are requested and needed for a client's treatment solely because

payment has not been received for past services, except as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:171 (February 2003).

§4719. Advertising

A. Licensed marriage and family therapists engage in appropriate informational activities, including those that enable the public, referral sources, or others to choose professional services on an informed basis.

B. Licensed marriage and family therapists accurately represent their competencies, education, training, and experience relevant to their practice of licensed marriage and family therapy.

C. Licensed marriage and family therapists ensure that advertisements and publications in any media (such as directories, announcements, business cards, newspapers, radio, television, Internet, and facsimiles) convey information that is necessary for the public to make an appropriate selection of professional services. Information could include:

1. office information, such as name, address, telephone number, credit card acceptability, fees, languages spoken, and office hours (see §4719.F);

2. qualifying clinical degree (see §4719.F);

3. other earned degrees and state or provincial licensures and/or certifications;

4. licensed marriage and family therapist status; and

5. description of practice.

D. Licensed marriage and family therapists do not use names that could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name, and do not hold themselves out as being partners or associates of a firm if they are not.

E. Licensed marriage and family therapists do not use any professional identification (such as a business card, office sign, letterhead, Internet, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading, or deceptive.

F. In representing their educational qualifications, licensed marriage and family therapists list and claim as evidence only those earned degrees:

1. from institutions accredited by regional accreditation sources recognized by the United States Department of Education,

2. from institutions recognized by states or provinces that license or certify licensed marriage and family therapists, or

3. from equivalent foreign institutions.

G. Licensed marriage and family therapists correct, wherever possible, false, misleading, or inaccurate information and representations made by others concerning the therapist's qualifications, services, or products.

H. Licensed marriage and family therapists make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading, or deceptive.

I. Licensed marriage and family therapists do not represent themselves as providing specialized services unless they have the appropriate education, training, or supervised experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors, LR 29:171 (February 2003).

§4720. Appendix C Statement of Practice for Licensed Marriage and Family Therapists

A. Each licensed marriage and family therapist/MFT intern in Louisiana shall write a statement of practice incorporating the following information to provide to all clients. LMFT's also licensed in other mental health professions may need to add additional information required by that licensure. This statement is subject to review and approval by the advisory committee. Sample statements of practice are available from the board office.

1. Your name, mailing address, and telephone number.
2. Qualifications:
 - a. degrees earned and institution(s) attended;
 - b. your LMFT licensure number, noting that the Board of Examiners is the grantor of your license. Include the address and telephone number of the board;
 - c. other licensure numbers, including the name, address, and telephone number of the grantor;
 - d. an MFT intern must use this title and include the name and address of his/her approved supervisor and a brief explanation of how supervision affects the therapy provided.
3. Specify the type(s) of clients you serve.
4. Specialty Areas:
 - a. List your specialty areas such as family of origin, parenting, stepfamilies, adolescents, marriage, etc.
 - b. List your national certifications.
5. What Clients Can Expect from Therapy
 - a. Briefly describe the theoretical orientation and the type of techniques and/or strategies that you use in therapy.
 - b. Briefly describe your philosophical view of therapy, including clients' input for treatment plans.
 - c. Briefly describe your general goals and objectives for clients.
6. Note Any Expectations that You Have for Clients
 - a. For example, clients:
 - i. must make their own decisions regarding such things as deciding to marry, divorce, separate, reconcile, and how to set up custody and visitation; that is, you may help them understand the consequences of these decisions, but your code of ethics does not allow you to advise a specific decision.
 - ii. must notify you before beginning therapy of any other ongoing professional mental health relationship or other professional relationship that might impact the therapy
 - iii. must inform you during the therapy before being seeing another mental health professional or professional in another discipline that might impact the therapy.
 - iv. are expected to follow through on homework assignments;
 - v. are expected to inform you on their intake form and during therapy of their general physical health, any medical treatments that may impact their therapy and any medications that they are taking.

7. Code of Ethics

a. State that you are required by state law to adhere to The Louisiana Code of Ethics for Licensed Marriage and Family Therapists; and

b. that a copy is available on request;

c. you might want to specifically note some of the provisions in the Code of Ethics that you would like clients to be aware of;

8. Describe the Rules governing privileged communication for Licensed Marriage and Family Therapists.

a. Include instances where confidentiality may be waived. This includes, but is not limited to danger to self or others, suspected child abuse/neglect, elderly abuse/neglect, or disabled adult abuse/neglect.

b. Include the information that when providing couple, family or group treatment, a licensed marriage and family therapist cannot:

i. disclose any information outside the treatment context without a written authorization from each individual competent to execute a waiver; and

ii. may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

c. If you audio- or video-tape sessions, include information specific to their use.

d. See Chapter 39 and the Code of Ethics in the Appendix for Rules on privileged communication.

9. State your policy for emergency client situations.

10. Fees, Office Procedures, Insurance Policies

a. List your fees and describe your billing policies.

b. State your policy on insurance payments.

c. Describe your policy on payments, scheduling and breaking appointments, etc.

11. Adequately inform clients of potential risks and benefits of therapy. For example:

a. clients may realize that they have additional issues that they were not aware of before the therapy as a result of the therapy;

b. making changes through therapy may bring about unforeseen changes in a person's life;

c. individual issues may surface for each spouse as clients work on a marital relationship;

d. making changes in communication and/or ways of interacting with others may produce adverse responses from others;

e. marital or family conflicts may intensify as feelings are expressed;

f. individuals in marital or family therapy may find that spouses or family members are not willing to change.

12. Briefly add any additional information that you believe is important for your clients to be informed about your qualifications and the therapy that you provide.

13. End with a general statement indicating that the client(s) have read and understand the statement of practice, providing spaces for the date, client(s)' signatures, and your signature. MFT Interns need to have a line for their LMFT-approved supervisor's signature.

B. Provide clients with a copy or copies of the signed statement of practice.

C. A Licensed Marriage and Family Therapist/MFT Intern must have a copy of his/her statement of practice on file in the board office. An MFT Intern must include a copy of his/her statement of practice with his/her Registration of Supervision. The Code of Ethics can be duplicated for clients and additional copies are available at www.lpcboard.org or from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:172 (February 2003).

Gary S. Grand
Board Chair

0302#024

RULE

Department of Health and Hospitals Office of Public Health

Preparation and Handling of Seafood for Market (LAC 51:IX.303 and 333)

Editor's Note: Sections 303 and 333 are being repromulgated to correct errors in the June 2002 compilation of Title 51.

Title 51

PUBLIC HEALTHCSANITARY CODE

Part IX. Marine and Fresh Water Animal Food Products

Chapter 3. Preparation and Handling of Seafood for Market

§303. Construction and Cleanliness of Shellfish Boats [formerly paragraph 9:006]

A. All boats utilized for the harvesting or transporting of shellfish shall be provided with a false deck or bottom to prevent the contamination of shellfish with bilge water. For the purpose of this regulation, bilge water may be defined as any water that collects in the lowest inner part of a boat's hull. Decks, holds or binds used for storage of shellfish shall be washed daily with either potable water, or water drawn from an approved growing area. Unless otherwise exempted in writing by the Department of Health and Hospitals, a suspended awning shall be provided on harvest boats to protect shellfish from direct exposure to sun, birds and other adverse conditions. The suspended awning shall be a minimum of 12 inches above the shellfish with a maximum height of 7 feet. The suspended awning shall be of such width and length so as to extend to the outer edges of the harvesting or transporting vessel. The provisions of this rule shall apply to all types of harvesting and transporting vessels. Small children in diapers, dogs, cats or other forms of wildlife shall not be permitted on board harvesting vessels while shellfish are being fished or transported. Violation of any of the requirements in this Section shall result in one of the following penalties.

1. Shellfish shall be seized and destroyed at violator's expense.

2. Shellfish shall be bedded on a Department of Wildlife and Fisheries managed seed reservation at violator's expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002), repromulgated LR 29:173 (February 2003).

§333. General Provisions

[formerly paragraph 9:052-3]

A. Shell-stock harvested for delivery to a steam factory for canning and thermal processing shall be landed at the factory within 72 hours from the time harvesting begins. The time harvesting begins and the time of arrival at the factory shall be recorded on the harvester's invoice.

B. If a harvester elects to fish both shell-stock intended for raw consumption and for shucking by a certified dealer on the same day, it shall be his responsibility to properly separate and identify the two types of shell-stock.

C. Except for deliveries made to a shellfish dealer certified by the Office of Public Health for inclusion on the U.S. Food and Drug Administration's Interstate Certified Shellfish Shippers List and located less than 30 minutes from dockside, all land-based deliveries of shell stock shall be made aboard mechanically refrigerated trucks with an internal air temperature of 45 degrees Fahrenheit or less as measured 12 inches from the blower. For shipments by air, an internal meat temperature of 45 degrees Fahrenheit or less shall be maintained at all times. To accomplish this it shall be necessary to pre-chill shellstock to an internal temperature of 40 degrees Fahrenheit or less prior to being packed into insulated containers with frozen gel packs. Land-based deliveries of molluscan shell stock to a steam factory for thermal processing and canning shall be exempt from these refrigeration requirements during the months November through May provided that the shellfish are delivered to the cannery in accordance with the requirements cited in Paragraph A of this Section and the Department of Wildlife and Fisheries, Enforcement Division is notified via their toll free telephone number (800/442-2511) prior to making each delivery.

D. When shell-stock are temporarily off-loaded for any reason, storage must be on pallets or on a well graded paved surface, with direct exposure to the sun limited to no more than 30 minutes.

E.1. A Harvester-Dealer Time/Temperature Log Sheet (see §345) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the months January through December. Log sheets shall be maintained for a period of one year and made readily available for inspection by agents of the Department of Health and Hospitals, Department of Wildlife and Fisheries and the U.S. Food and Drug Administration. Log sheets for the current and previous 15 days harvest shall be kept aboard the harvest vessel for immediate examination. The requirement for a Harvester-Dealer Time/Temperature Log Sheet will not apply to the West Cove Conditional Management Area or the Lower Calcasieu Lake Conditional Management Area which are located in Cameron Parish. Log Sheet Instructions: A Harvester-Dealer Time/Temperature Log Sheet (see §345 formerly Table 1). Prior to the taking of oysters the harvester shall make the following legible entries:

- a. boat name/number;
- b. harvester name/license number;

- c. harvester signature and date;
- d. harvesting area/lease number (note: if there is a change relating to harvesting area/lease number, the changes must be documented on log sheet);
- e. time harvesting begins;
- f. harvester shall declare whether oysters will be bedded, shucked, relayed or other (explain).

2. Upon completion of the taking of oysters and prior to the leaving of the harvesting site, the harvester shall record the time harvesting ended and the total number of sacks harvested.

3. If the harvester declares sacks of oysters for both shucking and half-shell, those oysters shall be distinguished by placing the appropriate tag on the sack prior to leaving the harvesting area.

4. The certified dealer information shall be completed as follows.

- a. The certified dealer/agent shall legibly document in the appropriate place on the harvester dealer time/temperature log sheet the temperature of the cooler where oysters are being stored at the time unloading of the harvesting vessel begins.

- b. The certified dealer/agent shall legibly document in the appropriate place the time when the last sack or container of oysters taken from the harvest vessel is placed in the cooler. This entry must be made immediately upon removal of the last sack or container of shellfish from the vessel.

- c. The certified dealer/agent shall legibly document in the appropriate place the temperature of the cooler immediately upon removal of the last sack or container of oysters from the harvesting vessel and placement of same under refrigeration.

- d. The certified dealer/agent shall immediately sign and date the log sheet in the appropriate place.

5. Alternate designs for the Harvester-Dealer Time/Temperature Log Sheet depicted in §345 may be submitted for consideration and approval to the Office of Public Health.

F. Post-Harvest Processing

1. If a dealer elects to use a process to reduce the levels(s) of one target pathogen or some target pathogens, or all pathogens of public health concern in shellfish, the dealer shall:

- a. have a Hazard Analysis Critical Control Point (HCAAP) plan approved by the authority for the process that ensures that the target pathogen(s) are at safe levels for the at risk population in product that has been subjected to the process:

- i. for processes that target *Vibrio vulnificus*, the level of *Vibrio vulnificus* in product that has been subjected to the process shall be non-detectable (<3 MPN/gram), to be determined by use of the *Vibrio vulnificus* FDA approved EIA procedure of Tamplin, et al, as described in Chapter 9 of the FDA Bacteriological Analytical Manual, 7th Edition, 1992;

- ii. for processes that target *Vibrio parahaemolyticus*, the level of *Vibrio parahaemolyticus* in product that has been subjected to the process shall be non-detectable (<1 CFU/0.1 gram);

- iii. for processes that target other pathogens, the level of those pathogens in product that has been subjected to the process shall be below the appropriate FDA action level, or, in the absence of such a level, below the appropriate level as determined by the ISSC;

- iv. the ability of the process to reliably achieve the appropriate reduction in the target pathogen(s) shall be validated by a study approved by the Authority, with the concurrence of FDA;

- v. the HACCP plan shall include:

- (a) process controls to ensure that the end point criteria are met for every lot; and

- (b) a sampling program to periodically verify that the end point criteria are met;

- b. package and label all shellfish in accordance with all requirements of the Model Ordinance. This includes labeling all shellfish which have been subjected to the process but which are not frozen in accordance with applicable shellfish tagging and labeling requirements in Chapter X.05 and X.06 of the National Shellfish Sanitation Program Model Ordinance;

- c. keep records in accordance with Chapter X.07 of the National Shellfish Sanitation Program Model Ordinance.

2. A dealer who meets the requirements of this Section may label product that has been subjected to the reduction process as:

- a. "processed for added safety," if the process reduces the levels of all pathogens of public health concern to safe levels for the at risk population;

- b. "processed to reduce [name of target pathogen(s)] to non-detectable levels," if the process reduces one or more, but not all, pathogens of public health concern to safe levels for the at risk population, and if that level is non-detectable; or

- c. "processed to reduce [name of target pathogen(s)] to non-detectable levels for added safety," if the process reduces one or more, but not all, pathogens of public health concern to safe levels for the at risk population, and if that level is non-detectable; or

- d. a term that describes the type of process applied (e.g., "pasteurized," "individually quick frozen," "pressure treated") may be substituted for the word "processed" in the options contained in §333.F.2.c.

3. For the purpose of refrigeration, if the end product is dead, the product shall be treated as shucked product. If the end product is live, the product shall be treated as shell-stock.

4. A Harvester-Dealer Oyster Tag, blue in color, shall be used for shell-stock that has undergone a *Post-Harvest Treatment Process*.

5. Certification number of the Post-Harvest treatment facility is required on all Post-Harvest treated tags.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1309 (June 2002), repromulgated LR 29:173 (February 2003).

0302#027

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Services for Special Populations
(LAC 50:XV.Chapters 65 - 87)

Editor's Note: The following Subpart has recently been compiled and is being promulgated for codification purposes.

The table below shows the Rules compiled to create each Section.

Section Number	Rules
§6503	LR 16:973 (November 1990)
§6505	LR 19:1331 (October 1993)
§6703	LR 16:972 (November 1990), LR 16:973(November 1990)
§6705	LR 12:678 (October 1986), LR 19:748 (June 1993), LR 22:106 (February 1996), LR 23:413 (April 1996)
§6901	LR 27:1240 (August 2001), LR 28:2534 (December 2002)
§6903	LR 3:445 (November 1977), LR 8:75 (February 1982), LR 9:415 (June 1983), LR 27:203 (February 2001), LR 27:1240 (August 2001), LR 28:2534 (December 2002)
§7101	LR 16:971 (November 1990), LR 23:413 (April 1996), LR 24:336 (February 1998)
§7301	LR 21:947 (September 1995)
§7303	LR 21:947 (September 1995)
§7305	LR 21:947 (September 1995)
§7307	LR 21:947 (September 1995)
§7309	LR 21:947 (September 1995)
§7311	LR 21:947 (September 1995)
§7313	LR 21:947 (September 1995)
§7315	LR 21:947 (September 1995)
§7317	LR 21:947 (September 1995)
§7319	LR 21:947 (September 1995)
§7321	LR 21:947 (September 1995)
§7323	LR 21:947 (September 1995)
§7701	LR 29:40 (January 2003)
§7703	LR 29:40 (January 2003)
§7705	LR 29:40 (January 2003)
§7707	LR 29:40 (January 2003)
§8501	LR 8:75 (February 1982), LR 22:104 (February 1996)
§8701	LR 27:547 (April 2001)
§8703	LR 22:104 (February 1996)
§8717	LR 24:1300 (July 1998)
§8719	LR 24:1300 (July 1998)
§8721	LR 24:1300 (July 1998)
§8723	LR 24:1300 (July 1998)

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services For Special Populations

Subpart 5. Early And Periodic Screening, Diagnosis, And Treatment

Chapter 65. General Provisions

§6501. Reserved.

§6503. Service Limit Exemptions

A. The following limitations on services shall not apply to Medicaid-eligible recipients under the age of 21:

1. inpatient hospitalization stay limits;
2. outpatient hospital emergency room limits;
3. physician office visit limits;
4. physician hospital visit limits;
5. home health annual visit limits;

6. home health daily limits on nursing and nurse aide services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003).

§6505. Provider Restrictions

A. The Medical Assistance Program of Louisiana prohibits Medicaid providers from charging a fee to Medicaid beneficiaries for completing referral forms to obtain services from other state or federally funded programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003).

Chapter 67. KIDMED

§6701. Reserved.

§6703. Screening Services

A. Screening services reimbursable under the Early and Periodic Screening, Diagnosis, and Treatment Program to Medicaid-eligible children under 21 years of age shall include:

1. health education (including anticipatory guidance) as a minimum component in addition to a comprehensive health and development history (including assessment of both physical and mental health development);
2. a comprehensive unclothed physical exam;
3. appropriate immunizations according to age and health history; and
4. laboratory tests (including blood lead level assessment appropriate for age and risk factors).

B. Vision and hearing services shall be performed according to distinct periodicity schedules which meet reasonable standards of medical practice, as determined after consultation with recognized medical organizations involved in child health care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 29:175 (February 2003).

§6705. Reimbursement

A. KIDMED providers are reimbursed \$51 under the Early Periodic Screening Diagnosis and Treatment Program for medical screenings of Medicaid recipients under 21 years of age, which are performed by or under the supervision of a licensed physician, or by a certified physician assistant or registered nurse within their scope of practice permitted by state law.

B. Reimbursement for follow-up medical screening services is set for the following procedure codes.

Procedure Codes	Description	Rate
X0180	Consult EPSDT-New Dx by Nurse	\$13.71
X0181	Consult EPSDT-New Dx by Nutrition	\$13.71
X0182	Consult EPSDT-New Dx by Social Worker	\$13.71
X0187	Consult EPSDT-Scm Dx by Nurse	\$13.71
X0188	Consult EPSDT-Scm Dx by Nutrition	\$13.71
X0189	Consult EPSDT-Scm Dx by Social Worker	\$13.71

C. Timely Filing. KIDMED medical screening claims for Medicaid beneficiaries between the ages of four months and 20 years must be received by Louisiana KIDMED within 60 calendar days of the date of service in order to be processed and the provider reimbursed by Medicaid of Louisiana. Claims not received by Louisiana KIDMED within this time limit may be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003).

Chapter 69. Dental

§6901. Provider Requirements

A. There are requirements for unique identification information to be processed into all new removable dental prosthetics reimbursed under the Medicaid Program. Into the acrylic base of each new removable dental prosthesis, EPSDT Dental Program providers shall process the first four letters of the recipients last name, first initial, month and year, and the last five digits of the Medicaid provider number. This criteria applies to the following services:

1. full upper denture;
2. full lower denture;
3. immediate full upper denture;
4. immediate full lower denture;
5. upper acrylic partial w/clasp;
6. lower acrylic partial w/clasp;
7. upper cast partial/acrylic; and
8. lower cast partial/acrylic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003).

§6903. Reimbursement

[Editor's Note: refer to EPSDT Manual for complete Maximum Fee Schedule of Authorized Services.]

A. Reimbursement fees are increased for certain designated procedure codes to the following rates.

Procedure Code	Procedure	Rate
00120	Periodic Oral Exam	\$ 16
00220	Radiograph – Periapical – First Film	\$ 6
00230	Radiograph – Periapical – Each Additional Film	\$ 5
00272	Radiographs – Bitewing – Two Films	\$ 12
01110	Adult Prophylaxis	\$ 27
01120	Child Prophylaxis	\$ 12
01351	Sealant – Per Tooth	\$ 16
02110	Amalgam - One Surface Deciduous	\$ 35
02120	Amalgam – Two Surface, Primary	\$ 50
02130	Amalgam - Three Surface, Primary	\$ 60
02140	Amalgam - One Surface, Permanent	\$ 42
02150	Amalgam - Two Surface, Permanent	\$ 53
02160	Amalgam - Three Surface, Permanent	\$ 64
02330	Resin – One Surface	\$ 45
02331	Resin – Two Surface	\$ 55
02332	Resin – Three Surface	\$ 65
02930	Stainless Steel Crown, Primary	\$ 80
02931	Stainless Steel Crown, Permanent	\$ 80
02950	Crown Buildup	\$ 85
03220	Pulpotomy – Deciduous Tooth Only	\$ 40
03310	Root Canal – One Canal	\$212
03320	Root Canal – Two Canals	\$241
03330	Root Canal – Three Canals	\$306

05110	Full Upper Denture	\$470
05120	Full Lower Denture	\$470
05130	Immediate Full Upper Denture	\$470
05140	Immediate Full Lower Denture	\$470
05211	Upper Acrylic Partial w/Clasp	\$425
05212	Lower Acrylic Partial w/Clasp	\$425
05750	Reline Full Upper Denture-Lab Reline	\$200
05751	Reline Full Lower Denture-Lab Reline	\$200
05760	Reline Upper Partial Denture-Lab Reline	\$175
05761	Reline Lower Partial Denture-Lab Reline	\$175
07110	Simple Extraction	\$ 38
07210	Surgical Extraction	\$ 57

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003).

Chapter 71. Rehabilitation Services

§7101. Reimbursement

A. Medically necessary physical therapy, occupational therapy, and speech therapy required for maintenance of optimum functional levels shall be reimbursed under the EPSDT Health Services Program when such services are rendered to Medicaid-eligible recipients. Prior authorization for these services shall be required and a determination of medical necessity shall be made by the Bureau of Health Services Financing prior to approval.

B. The following reimbursement rates for rehabilitation services are provided.

Procedure	Rate
Occupational therapy evaluation, re-evaluation	\$51.00
Occupational therapy orthotics training-each 15 minutes	\$ 8.00
Therapeutic activity-15 minutes	\$ 8.00
Occupational therapy, physical performance test-15 minutes	\$ 8.00
Physical therapy evaluation	\$54.00
Physical therapy therapeutic procedure-15 minutes	\$10.00
Physical therapy neuromuscular re-educ.-15 minutes	\$10.00
Physical therapy gait training- 1/2 hour	\$20.00
Physical therapy physical med- 1/2hour	\$10.00
Combo. of physical med. init.- 1/2hour	\$20.00
Physical therapy+ 15 minutes	\$30.00
Application of modality-15 minutes	\$10.00
Individual speech therapy-1 hour	\$30.00
Individual speech therapy- 1/2 hour	\$15.00
Individual speech therapy-20 minutes	\$10.00
Individual speech therapy-15 minutes	\$ 7.50
Group speech therapy-1 hour	\$30.00
Group speech therapy- 1/2 hour	\$15.00
Group speech therapy-20 minutes	\$10.00
Group speech therapy-15 minutes	\$ 7.50

C. All school boards that participate in Medicaid as EPSDT health services providers must submit a signed school system certification of understanding (PE-50 EPSDT provider supplement agreement AC@) in order to receive the new reimbursement rates for these services. The new reimbursement rates will not be activated until a completed PE-50 EPSDT provider supplement agreement AC@ form has been received from all of the school boards enrolled as EPSDT health services providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003).

Chapter 73. Personal Care Services

§7301. Introduction

Early Periodic Screening, Diagnosis and Treatment Personal Care ServicesC

1. tasks which are medically necessary as they pertain to an EPSDT eligible's physical requirements when physical limitations due to illness or injury necessitate assistance with eating, bathing, dressing, personal hygiene, bladder or bowel requirements;

2. services which prevent institutionalization and enable the recipient to be treated on an outpatient basis rather than an inpatient basis to the extent that services on an outpatient basis are projected to be more cost effective than services provided on an inpatient basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003).

§7303. Services

A. The recipient shall be allowed the freedom of choice to select an EPSDT PCS provider.

B. EPSDT personal care services include:

1. basic personal care, toileting and grooming activities, including bathing, care of the hair, and assistance with clothing;

2. assistance with bladder and/or bowel requirements or problems, including helping the client to and from the bathroom or assisting the client with bedpan routines, but excluding catheterization;

3. assistance with eating and food, nutrition, and diet activities, including preparation of meals for the recipient only;

4. performance of incidental household services essential to the client's health and comfort in her/his home. Examples of such activities are changing and washing bed linens and rearranging furniture to enable the recipient to move about more easily in his/her own home;

5. accompanying not transporting the recipient to and from his/her physician and/or medical facility for necessary medical services;

6. EPSDT personal care services are not to be provided to meet childcare needs nor as a substitute for the parent in the absence of the parent;

7. personal care services (PCS) are not allowable for the purpose of providing respite care to the primary caregiver;

8. EPSDT personal care services provided in an educational setting shall not be reimbursed if these services duplicate services that are provided by or must be provided by the Department of Education;

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003).

§7305. Recipient Qualifications

A. Conditions for Provision of EPSDT Personal Care Services

1. The person must be a categorically-eligible Medicaid recipient birth through 20 years of age (EPSDT eligible) and have been prescribed EPSDT PCS as medically necessary by a physician. To establish medical necessity the parent or guardian must be physically unable to provide personal care services to the child.

2. An EPSDT-eligible must meet medical necessity criteria as established by the Bureau of Health Services Financing (BHSF) which shall be based on criteria equivalent to at least an Intermediate Care Facility I (ICF-1) level of care; and be impaired in at least two of daily living tasks, as determined by BHSF.

3. When determining whether a recipient qualifies for EPSDT PCS, consideration must be given not only to the type of services needed, but also the availability of family members and/or friends who can aid in providing such care. EPSDT PCS are not to function as a substitute for childcare arrangements.

4. EPSDT personal care services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling six months), and when changes in the Plan of Care occur. The physician should only sign a fully completed plan of care which shall be acceptable for submission to BHSF only after the physician signs and dates the form. The physician's signature must be an original signature and not a rubber stamp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003).

§7307. Prior Authorization

A. EPSDT personal care services must be prior authorized by the BHSF or its designee. A face-to-face medical assessment shall be completed by the physician. The recipient's choice of a personal care services provider may assist the physician in developing a plan of care which shall be submitted by the physician for review/approval by BHSF or its designee. The plan of care must specify:

1. the personal care service(s) to be provided (i.e., activities of daily living for which assistance is needed); and
2. the minimum and maximum frequency and the minimum duration of each of these services.

B. Dates of care not included in the plan of care or provided prior to approval of the plan of care by BHSF are not reimbursable. The recipient's attending physician shall review and/or modify the plan of care and sign off on it prior to the plan of care being submitted to BHSF. A copy of the physician's prescription or referral for EPSDT PCA services must be retained in the personal care services provider's files.

C. A new plan of care must be submitted at least every 180 days (rolling six months) with approval by the recipient's attending physician. The plan of care must reassess the patient's need for EPSDT PCS services, including any updates to information which has changed since the previous assessment was conducted (with explanation of when and why the change(s) occurred).

D. Amendments or changes in the plan of care should be submitted as they occur and shall be treated as a new plan of care which begins a new six-month service period. Revisions

of the plan of care may be necessary because of changes that occur in the patient's medical condition which warrant an additional type of service, an increase in frequency of service or an increase in duration of service. Documentation for a revised plan of care is the same as for a new plan of care. Both a new "start date" and "reassessment date" must be established at the time of reassessment. The provider may not initiate services or changes in services under the plan of care prior to approval by BHSF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003).

§7309. Place of Service

A. EPSDT personal care services must be provided in the recipient's home or in another location if medically necessary to be outside of the recipient's home. The recipient's home is defined as the recipient's own dwelling:

1. an apartment;
2. a custodial relative's home;
3. a boarding home;
4. a foster home;
5. a substitute family home; or
6. a supervised living facility.

a. Institutions such as a hospital, institution for mental diseases, nursing facility, intermediate care facility for the mentally retarded or residential treatment center are not considered a recipient's home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003).

§7311. Service Limits

A. EPSDT personal care services are limited to a maximum of four hours per day per recipient as prescribed by the recipient's attending physician and prior authorized by the BHSF or its designee. Extensions of this limit may be requested and granted if determined medically necessary by the Bureau of Health Services Financing or its designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003).

§7313. Standards for Payment

A. EPSDT personal care services may be provided only to EPSDT eligibles and only by a staff member of a licensed personal care services agency enrolled as a Medicaid provider. A copy of the current PCS license must accompany the Medicaid application for enrollment as a PCS provider and additional copies of current licenses shall be submitted to Provider Enrollment thereafter as they are issued, for inclusion in the enrollment record. The provider's record must always include a current PCS license at all times. Enrollment is limited to providers in Louisiana and out-of-state providers only in trade areas of states bordering Louisiana (Arkansas, Mississippi, and Texas).

B. The unit of service billed by EPSDT PCS providers shall be one-half hour, exclusive of travel time to arrive at the recipient's home. The entire 30 minutes of the unit of time shall have been spent providing services in order to bill a unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003).

§7315. Provider Qualifications

A. Personal care services must be provided by a licensed personal care services agency which is duly enrolled as a Medicaid provider. Staff assigned to provide personal care services shall not be a member of the recipient's immediate family. (Immediate family includes father, mother, sister, brother, spouse, child, grandparent, in-law, or any individual acting as parent or guardian of the recipient). Personal care services may be provided by a person of a degree of relationship to the recipient other than immediate family, if the relative is not living in the recipient's home, or, if she/he is living in the recipient's home solely because her/his presence in the home is necessitated by the amount of care required by the recipient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003).

§7317. Provider Responsibilities

A. The PCS agency is responsible for ensuring that all personal care individuals providing services meet all training requirements applicable under state law and regulations. The personal care services staff member must successfully complete the applicable examination for certification for PCS. Documentation of the personal care staff member's completion of all applicable requirements shall be maintained by the personal care services provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003).

§7319. Agency Responsibilities

A. Documentation

1. Documentation for EPSDT PCS provided shall include at a minimum, the following:

- a. documentation of approval of services by BHSF or its designee;
- b. daily notes by PCS provider denoting date of service, services provided (checklist is adequate);
- c. total number of hours worked;
- d. time period worked;
- e. condition of recipient;
- f. service provision difficulties;
- g. justification for not providing scheduled services;

and

- h. any other pertinent information.
2. There must be a clear audit trail between:
- a. the prescribing physician;
 - b. the personal care services provider agency;
 - c. the person providing the personal care services to the recipient; and
 - d. the services provided and reimbursed by Medicaid.

B. Agencies providing EPSDT PCS shall conform to all applicable Medicaid regulations as well as all applicable laws and regulations by federal, state, and local governmental entities regarding:

1. wages;
2. working conditions;
3. benefits;
4. Social Security deductions;
5. OSHA requirements;
6. liability insurance;
7. Workman's Compensation;
8. occupational licenses; etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003).

§7321. Reimbursement

A. EPSDT PCS shall be paid the lesser of billed charges or the maximum unit rate set by BHSF. This maximum rate was set based on the federal minimum hourly wage as of April 1, 1995, plus 22 percent for fringe benefits (insurance, Workmen's Compensation, unemployment, etc.), plus 24 percent for agency administrative and operating costs based on BHSF administrative and operating costs; plus a profit factor of 4 percent of the above calculated rate. This rate will be adjusted whenever the federal minimum wage is adjusted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:179 (February 2003).

§7323. Nonreimbursable Services

A. The following services are not appropriate for personal care and are not reimbursable as EPSDT personal care services:

1. insertion and sterile irrigation of catheters (although changing of a catheter bag is allowable);
2. irrigation of any body cavities which require sterile procedures;
3. application of dressing, involving prescription medication and aseptic techniques, including care of mild, moderate or severe skin problems;
4. administration of injections of fluid into veins, muscles or skin;
5. administration of medicine (as opposed to assisting with self-administered medication for EPSDT eligibles over 18 years of age);
6. cleaning of floor and furniture in an area not occupied by the recipient.
 - a. Example: cleaning entire living area if the recipient occupies only one room;
7. laundry, other than that incidental to the care of the recipient.
 - a. Example: laundering of clothing and bedding for the entire household, as opposed to simple laundering of the recipient's clothing or bedding;
8. shopping for groceries or household items other than items required specifically for the health and maintenance of the recipient, and not for items used by the rest of the household;
9. skilled nursing services, as defined in the state Nurse Practices Act, including medical observation, recording of vital signs, teaching of diet and/or administration of medications/injections, or other delegated nursing tasks;

10. teaching a family member or friend how to care for a patient who requires frequent changes of clothing or linens due to total or partial incontinence for which no bowel or bladder training program for the patient is possible;

11. specialized nursing procedures such as:

- a. insertion of nasogastric feeding tube;
- b. in-dwelling catheter;
- c. tracheostomy care;
- d. colostomy care;
- e. ileostomy care;
- f. venipuncture; and/or
- g. injections;

12. rehabilitative services such as those administered by a physical therapist;

13. teaching a family member or friend techniques for providing specific care;

14. palliative skin care with medicated creams and ointments and/or required routine changes of surgical dressings and/or dressing changes due to chronic conditions;

15. teaching of signs and symptoms of disease process, diet and medications of any new or exacerbated disease process;

16. specialized aide procedures such as:

a. rehabilitation of the patient (exercise or performance of simple procedures as an extension of physical therapy services);

b. measuring/recording patient vital signs (temperature, pulse, respirations and/or blood pressure, etc.) or intake/output of fluids;

c. specimen collection;

d. special procedures such as:

- i. nonsterile dressings;
- ii. special skin care (nonmedicated);
- iii. decubitus ulcers;
- iv. cast care;
- v. assisting with ostomy care;
- vi. assisting with catheter care;
- vii. testing urine for sugar and acetone;
- viii. breathing exercises;
- ix. weight measurement;
- x. enemas;

17. home IV therapy;

18. custodial care or provision of only instrumental activities of daily living tasks or provision of only one activity of daily living task;

19. occupational therapy;

20. speech pathology services;

21. audiology services;

22. respiratory therapy;

23. personal comfort items;

24. durable medical equipment;

25. oxygen;

26. orthotic appliances or prosthetic devices;

27. drugs provided through the Louisiana Medicaid pharmacy program;

28. laboratory services; and

29. social worker visits.

B. EPSDT personal care services provided to meet childcare needs or as a substitute for the parent in the absence of the parent shall not be reimbursed.

C. EPSDT personal care services provided for the purpose of providing respite to the primary caregiver shall not be reimbursed.

D. EPSDT personal care services provided in an education setting shall not be reimbursed if these services duplicate services that are provided by or must be provided by the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:179 (February 2003).

Chapter 77. Psychological and Behavioral Services

§7701. Recipient Criteria

A. In order to be eligible for services, a Medicaid recipient must be under the age of 21, be a member of the Chisholm lawsuit class and meet one of the following criteria:

1. have a diagnosis of Pervasive Developmental Disorder (PDD) according to a clinically appropriate diagnostic screening tool or other assessment; or

2. have an impaired functional status that can be addressed by psychological treatment on an instrument or other assessment of individual functioning that is appropriate for individuals with developmental disabilities; or

3. engage in behaviors so disruptive or dangerous that harm to others is likely (e.g., hurts or attempts to hurt others, such as hitting, biting, throwing things at others, using or threatening to use a weapon or dangerous object). Behaviors must be recurrent, not a single instance; or

4. engage in behaviors that have resulted in actual physical harm to the child himself/herself, such as bruising, lacerations or other tissue damage, or would result in physical harm if the child was not physically restrained. Behaviors must be recurrent, not a single instance. Behaviors are not the result of clinically suicidal intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:180 (February 2003).

§7703. Covered Services

A. The following services, as identified by the accompanying Current Physicians' Terminology (CPT) procedure codes, are covered under EPSDT psychological and behavioral services:

1. necessary evaluations CCPT codes 90801 and 96100;

2. family education and training CCPT code 90847;

3. clinical interventions CCPT codes 90804 and 90806; and

4. periodic follow-up CCPT codes 90847, 90804, and 90806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:180 (February 2003).

§7705. Provider Qualifications

A. In order to receive reimbursement as a Medicaid provider of EPSDT psychological and behavioral services, a psychologist must provide verification that he or she meets all of the following qualifications:

1. have a Ph.D;

2. be licensed to practice within the state of Louisiana; and

3. be professionally qualified to treat children, or to treat children and/or adults with PDD, including autism and/or developmental disorders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:180 (February 2003).

§7707. Reimbursement Methodology

A. Reimbursement for EPSDT psychological and behavioral services shall be based on 70 percent of the allowable rate on the 2002 Medicare Fee Schedule for Area 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:180 (February 2003).

Chapter 85. Durable Medical Equipment—Eyeglasses

§8501. Eye Care

A. EPSDT eyeglasses are limited to three per year with provision for extending if medically necessary.

B. Reimbursement. Reimbursement fees are reduced 15 percent for providers of the following Procedure Codes:

1. X6366 - X6368;

2. X6370 - X6376;

3. X9066 - X9068; and

4. X0089.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:180 (February 2003).

Chapter 87. Durable Medical Equipment—Hearing Devices

Subchapter A. Hearing Aids

§8701. Prior Authorization

A. Hearing aids and related services are only covered for EPSDT recipients up to the age of 21. Approval is granted only when there is significant hearing loss as documented by audiometric or electrophysiologic data from a licensed audiologist and medical clearance and prescription from an ear specialist (otologist).

B. The audiologist must furnish a report, including an audiogram (if applicable) and all test results, indicating the degree and type of hearing loss. A hearing loss greater than 20 decibels with an average hearing level in the range 250-2000 Hz is considered significant. Additional required medical and social information shall include:

1. the recipient's age;

2. expected benefit of the hearing aid;

3. previous and current use of a hearing aid;

4. additional disabilities expected to influence the use of a hearing aid; and

5. referrals made on the recipient's behalf to early intervention programs, special education programs or other rehabilitative services.

C. Hearing aid repairs, batteries, and ear molds shall not require prior authorization. Limitations on the purchase of ear molds are established as follows:

1. one ear mold will be allowed every 90 days for EPSDT recipients from birth through age 4; and

2. one ear mold per year will be allowed for EPSDT recipients from age 5 up to 21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:180 (February 2003).

§8703. Reimbursement

A. EPSDT reimbursement is reduced 15 percent for providers for the following Procedure Codes.

1. X-1092;
2. V5030;
3. V5040;
4. V5050;
5. V5060;
6. V5070;
7. V5080;
8. V5100;
9. V5120;
10. V5130;
11. V5140;
12. V5150;
13. V5170;
14. V5180;
15. V5190;
16. V5210;
17. V5220;
18. V5230; and
19. V5299.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:181 (February 2003).

Subchapter B. Cochlear Device

§8717. Eligibility and Prior Authorization

A. Coverage is available for cochlear implantation for recipients 2 years of age through 20 years of age with profound bilateral sensorineural hearing loss.

B. Prior Authorization. All implantations (CPT Code 69930) must be prior authorized. The request to perform surgery shall come from the cochlear implant team (made up of professionals as described in §8721 who assessed the recipient's hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:181 (February 2003).

§8719. Recipient Criteria

A. Recipient Criteria (General). The following criteria apply to all candidates. Recipient must:

1. have a profound bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90 dB HL or greater;
2. be a profoundly deaf child, age 2 years or older or be a post linguistically deafened adult through the age of 20 years;
3. receive no significant benefit from hearing aids as validated by the cochlear implant team;
4. have high motivation to be part of the hearing community as validated by the cochlear implant team;

5. have appropriate expectation;

6. have had radiologic studies that demonstrate no intracranial anomalies or malformations which would contraindicate implantation of the receiver-stimulator or the electrode array;

7. have no medical contraindications for undergoing implant surgery or post-implant rehabilitation; and

8. show that he and his family are well-motivated, possess appropriate post-implant expectations and are prepared and willing to participate in and cooperate with pre and post implant assessment and rehabilitation programs as recommended by the implant team and in conjunction with Federal Drug Administration (FDA) guidelines.

B. Recipient Criteria (Specific)

1. Children 2 Years through 9 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation that:

a. profound-to-total bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;

b. appropriate tests were administered and no significant benefit from a hearing aid was obtained in the best aided condition as measured by age-appropriate speech perception materials; and

c. no responses were obtained to Auditory Brainstem Response, Otoacoustic Emission testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation.

2. Children 10 Years through 17 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation that:

a. profound-to-total bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;

b. appropriate tests were administered and no significant benefit from a hearing aid was obtained in the best aided condition as measured by age and language-appropriate speech perception materials;

c. no responses were obtained to Auditory Brainstem Evoked Response, Otoacoustic Emission Testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation;

d. the candidate has received consistent exposure to effective auditory or phonological stimulation in conjunction with oral method of education and auditory training;

e. the candidate utilizes spoken language as his primary mode of communication through one of the following:

i. an oral/aural (re)habilitational program; or
ii. a total communications educational program with significant oral/aural; and

f. the individual has at least six months' experience with a hearing aid or vibrotactile device except in the case of meningitis (in which case the six-month period will be reduced to three months).

3. Adults 18 Years through 20 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation that:

a. the candidate for implant is post linguistically deafened with severe to profound bilateral sensorineural hearing loss which is a pure tone average of 1,000, 2,000, and 4,000 Hz of 90dB HL or greater;

b. no significant benefit from a hearing aid was obtained in the best aided condition for speech/sentence recognition material;

c. no responses were obtained to Auditory Brainstem Response, Otoacoustic Emission testing, or any other special testing that would be required to determine that the hearing loss is valid and severe enough to qualify for cochlear implantation;

d. the candidate has received consistent exposure to effective auditory or phonological stimulation or auditory communication;

e. the candidate utilizes spoken language as his primary mode of communication through one of the following:

i. an oral/aural (re)habilitation program; or

ii. a total communications educational program with significant oral/aural training; and

f. the candidate has had at least six months' experience with hearing aids or vibrotactile device except in the case of meningitis (in which case the six-month period will be reduced to three months).

4. Multi-Handicapped Children. Criteria appropriate for the child's age group are applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:181 (February 2003).

§8721. Cochlear Implant Team

A. Team Minimum Requirements. The implant team shall be composed of the following members at a minimum:

1. physician/otologist;
2. audiologist;
3. speech/language pathologist;
4. psychiatrist; and
5. educator of the deaf with experience in oral/auditory instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:182 (February 2003).

§8723. Expenses Covered/Noncovered

A. Covered Expenses. The following expenses related to the maintenance of the cochlear device will be covered if prior authorized:

1. all costs for upgrades and repairs to the component parts of the device; and

2. all costs for cords and batteries.

B. Noncovered Expenses. The following expenses related to the maintenance of the cochlear device are the responsibility of either the recipient or his family or care giver(s):

1. all costs for service contracts and/or extended warranties;

2. all costs for insurance to protect against loss and theft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:182 (February 2003).

0302#028

RULE

Department of Health and Hospitals Radiologic Technology Board of Examiners

Informal Proceeding/Consent Order and Licensure
(LAC 46:LXVI.Chapters 7 and 11)

In accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:950, et. seq., the Department of Health and Hospitals, Radiologic Technology Board of Examiners, pursuant to the authority vested in the board by R.S. 37:3207, has amended LAC 46:LXVI.Chapter 7, Informal Proceeding/Consent Order and LAC 46:LXVI.Chapter 11, Licensure by Examination, Application for Examination and Modifications to Submitted Information.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVI. Radiologic Technologists

Chapter 7. Actions before the Board

§705. Informal Proceeding/Consent Order

A. Informal Proceeding

1. The allegation(s) against a licensee may be concluded through informal proceedings without the necessity of a formal hearing if the board chair and/or designee does not deem the allegation(s) to be sufficiently serious to necessitate the convening of a formal hearing. The informal resolution of the allegation(s) may be accomplished through correspondence between the executive director and the licensee; by conference of the executive director and the licensee; or by consent order between the licensee and the board.

2. The executive director shall be authorized by the board to propose a recommended consent order to the licensee which would outline the details of disciplinary action between the parties as a consequence of the allegations.

B. The proposed consent order offered by the board through its executive director shall not be deemed as absolute and final until such time as the board ratifies the provisions of the said order.

C. A consent order between the board and the licensee or prospective licensee shall describe the disciplinary action which will be taken. The consent order shall be signed by the licensee or prospective licensee, the chairman and the vice-chairman of the board.

D. If a matter is not concluded by informal proceedings and a formal hearing is deemed necessary by the board chair and/or designee, a formal hearing shall be initiated pursuant to the provisions of §707.A, et seq.

E. If, at any point during investigation or during informal/formal proceedings as described herein, the board finds that public health, safety, or welfare imperatively requires emergency actions, the board is hereby authorized to immediately suspend the license of the licensee during the

course of the proceedings. If the board decides to institute a formal hearing, the hearing shall be instituted and conducted at the board's next regularly scheduled board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:869 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 19:1433 (November 1993), LR 29:182 (February 2003).

Chapter 11. Licensure

§1109. Licensure by Examination

A. Pursuant to R.S. 37:3207 and 3209, an application for licensure shall be required to pass the written examination of the Louisiana State Radiologic Technology Board of Examiners which shall be the examination constructed by the American Registry of Radiologic Technologists (ARRT) for each category of radiologic technology, except as otherwise provided above.

1. To be eligible for examination by the board, an applicant shall possess all qualification for licensure prescribed by R.S. 37:3208, provided, however, that an applicant who has completed or prior to examination will have completed his approved course of study, shall be deemed eligible for examination upon submission to the board of a letter from the program director of a board approved school or college of radiologic technology certifying that the applicant will complete or has completed his/her radiologic technology course of study prior to examination and specifying the date of completion.

B. The board establishes as the passing criterion on the ARRT written examination the passing score as established by the ARRT.

C. The eligible applicant must request and submit application to the ARRT for licensure examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207, R.S. 37:3208 and R.S. 37:3209.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003).

§1111. Application for Initial Licensure/Temporary Work Permit by Examination

A. Requests for application forms shall be requested and submitted to the state board.

B. Pursuant to R.S. 37:3210(C), a temporary work permit shall be issued one time only and for the time listed on the temporary work permit.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:3207 and R.S. 37:3209.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003).

§1115. Modifications to Submitted Information

A. Address or Name Changes. If a licensure/temporary work permit applicant must change the mailing address which was entered on the application form, the examinee must inform the board in writing. Changes in the examinee's name are to be handled in the same manner, but must be accompanied by documentary evidence of the change (e.g.,

copy of marriage certificate, legal name change form, etc.). If an admission ticket fails to reach a candidate due to a change of address that was not relayed to the board, the candidate may not be allowed into the examination center. No address or name changes will be processed at the examination center. All changes must be sent directly to the board by the candidate.

B. Postponements. Applicants are expected to appear for examination as assigned. When circumstances make it impossible for an examinee to appear for examination on the date assigned, the examinee may request rescheduling. Requests for rescheduling must be made in writing and submitted to the ARRT as per their rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003).

Richard S. Whitehorn
Executive Director

0302#040

RULE

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

NFPA Codes (LAC 55:V.103)

Editor's Note: This Rule is being repromulgated for corrective purposes. The original Rule may be viewed in the December 20, 2001 edition of the *Louisiana Register* on pages 2257-2259.

In accordance with the provisions of R.S.49:950, et seq. and R.S. 40:1563.F, relative to the authority of the State Fire Marshal to promulgate and enforce Rules, the Office of the State Fire Marshal amends the following Rule.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 1. Preliminary Provisions

' 103. General Provisions

A. It shall be the policy of the state fire marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the state fire marshal, that the National Fire Codes published by the National Fire Protection Association and the Standard Building Code shall be used as the references and standards for determinations by the state fire marshal as follows.

NFPA 1	1997 Edition	Fire Prevention Code
NFPA 10	1998 Edition	Standard for Portable Fire Extinguishers
NFPA 11	1998 Edition	Standard for Low-Expansion Foam
NFPA 12	2000 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	1997 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	1999 Edition	Standard for the Installation of Sprinkler Systems

NFPA 13D	1999 Edition	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	1999 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2000 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	1996 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	1999 Edition	Standard for the Installation of Deluge Foam-Water Sprinkler Systems
NFPA 17	1998 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	1998 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	1995 Edition	Standard on Wetting Agents
NFPA 20	1999 Edition	Standard for the Installation of Centrifugal Pumps
NFPA 24	1995 Edition	Standard for the Installation of Private Fire Service Mains and Their Appurtenances
NFPA 25	1998 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	1996 Edition	Flammable and Combustible Liquids Code
NFPA 30A	1996 Edition	Automotive and Marine Service Station Code
NFPA 30B	1998 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	1997 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	1996 Edition	Standard for Dry Cleaning Plants
NFPA 33	1995 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	1995 Edition	Standard for Dipping and Coating Processed Using Flammable or Combustible Liquids
NFPA 37	1998 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 42	1997 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 45	1996 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 49	1994 Edition	Hazardous Chemicals Data
NFPA 50	1996 Edition	Standard for Bulk Oxygen Systems at Consumer Sites
NFPA 50A	1999 Edition	Standard for Gaseous Hydrogen Systems at Consumer Sites
NFPA 50B	1998 Edition	Standard for Liquefied Hydrogen Systems at Consumer Sites
NFPA 51	1997 Edition	Standards for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 52	1998 Edition	Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems
NFPA 53	1999 Edition	Guide on Fire Hazards in Oxygen Enriched Atmospheres
NFPA 54	1999 Edition	National Fuel Gas Code
NFPA 55	1998 Edition	Standard for the Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders
NFPA 57	1999 Edition	Standard for Liquefied Natural Gas (LNG) Vehicular Fuel Systems
NFPA 58	1998 Edition	Standard for the Storage and Handling of Liquefied Petroleum Gases
NFPA 59A	1996 Edition	Standard for the production, Storage, and Handling of Liquefied Natural Gas (LNG)

NFPA 61	1999 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 68	1998 Edition	Guide for Venting of Deflagrations
NFPA 69	1997 Edition	Standard on Explosion Prevention Systems
NFPA 70	1999 Edition	National Electrical Code
NFPA 72	1999 Edition	National Fire Alarm Code
NFPA 75	1999 Edition	Standard for Protection of Electronic Computer/Data Processing Equipment
NFPA 80	1999 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	1999 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	1998 Edition	Standard for Parking Structures
NFPA 88B	1999 Edition	Standard for Repair Garages
NFPA 90A	1999 Edition	Standard for the Installation of Air Conditioning and Ventilating Systems
NFPA 90B	1999 Edition	Standard for the Installation of Warm Air Heating and Air Conditioning Systems
NFPA 92A	1996 Edition	Standard for Installation of Air Conditioning and Ventilation Systems
NFPA 92B	1995 Edition	Guide for Smoke Management in Malls, Atria, and Large Areas
NFPA 96	1998 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 97	2000 Edition	Standard Glossary of Terms Relating to Chimneys, Vents, and Heat Producing Appliances
NFPA 99	1999 Edition	Standard for Health Care Facilities
NFPA 99B	1999 Edition	Standard for Hypobaric Facilities
NFPA 101	2000 Edition	Code for Safety to Life from Fire in Buildings and Structures
NFPA 101A	1998 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	1999 Edition	Recommended Practice for the Installation of Smoke Control Door Assemblies
NFPA 110	1999 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	1996 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 150	1995 Edition	Standard on Fire Safety in Racetrack Stables
NFPA 170	1999 Edition	Standard for Fire Safety Symbols
NFPA 204	1998 Edition	Guide for Smoke and Heat Venting
NFPA 211	2000 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	1999 Edition	Standard on Types of Building Construction
NFPA 221	1997 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 230	1999 Edition	Standard for General Storage
NFPA 231D	1994 Edition	Standard for Storage of Rubber Tires
NFPA 232	1995 Edition	Standard for the Protection of Records
NFPA 303	1995 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	1995 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	1996 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	1995 Edition	Standard on Aircraft Hangars
NFPA 415	1997 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways

NFPA 418	1995 Edition	Standard for Heliports
NFPA 430	2000 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 432	1997 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 434	1998 Edition	Code for the Storage of Pesticides
NFPA 490	1998 Edition	Code for the Storage of Ammonium Nitrate
NFPA 491M	1991 Edition	Manual of Hazardous Chemical Reactions
NFPA 495	1996 Edition	Explosive Materials Code
NFPA 496	1998 Edition	Standard for Purged and Pressurized Enclosures for Electrical Equipment
NFPA 513	1998 Edition	Standard for Motor Freight Terminals
NFPA 701	1999 Edition	Standard Methods of Fire Tests for Flame-Resistant Textiles and Films
NFPA 703	1995 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials
NFPA 704	1996 Edition	Standard System for the Identification of the Hazards of Materials for Emergency Response
NFPA 705	1997 Edition	Recommended Practice for a Field Flame Test for Textiles and Films
NFPA 750	1996 Edition	Standard on Water Mist Fire Protection Systems
NFPA 801	1998 Edition	Standard for Facilities Handling Radioactive Materials
NFPA 901	1995 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 902	1997 Edition	Fire Reporting Field Incident Guide
NFPA 903	1996 Edition	Fire Reporting Property Survey
NFPA 904	1996 Edition	Incident Follow-up Report Guide
NFPA 906	1998 Edition	Guide for Fire Incident Field Notes
NFPA 1123	1995 Edition	Code for Fireworks Display
NFPA 1124	1995 Edition	Code for the Manufacture, Transportation, and Storage of Fireworks
NFPA 1126	1996 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	1999 Edition	Standard for the Installation, Maintenance, and Use of Public Fire Communication Systems
NFPA 1402	1997 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	1997 Edition	Standard on Live Fire Training Evolutions
NFPA 2001	2000 Edition	Standard on Clean Agent Fire Extinguishing Systems
NFPA 8501	1997 Edition	Standard for Single Burner Boiler Operation
NFPA 8502	1999 Edition	Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers
NFPA 8506	1998 Edition	Standard on Heat Recovery Steam Generator Systems

B. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after June 30, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc. All references to performance based criteria in the 2000 Edition of the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made. All inspections of buildings constructed or remodeled pursuant to plans submitted to the

Office of State Fire Marshal after December 31, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1997 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

C. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1998 will be made utilizing new construction requirements set forth in the 1997 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

D. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal on or after January 5, 1995, will be made utilizing new construction requirements set forth in the 1994 edition of the *Life Safety Code* of the National Fire protection Association and Section 506-Special Provisions for High-Rise Buildings published by the 1991 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

E. All inspections of building constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1992, will be made utilizing new construction requirements set forth in the 1991 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings published by the 1998 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

F. With regard to buildings constructed or remodeled between February 19, 1989, and May 31, 1992, or whose construction was timely completed pursuant to plans submitted to the Office of State Fire Marshal prior to May 31, 1992, inspections will be made utilizing the new construction requirements set forth in the 1998 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings published by the *Standard Building Code* of the Southern Building Code Congress International, Inc. (1985 edition).

G. All inspections of buildings constructed or remodeled between September 1, 1986, and February 19, 1989, will be made utilizing the requirements set forth in the 1985 edition of the *Life Safety Code* of the National Fire Protection Association and Section 518 Special Provisions for High Rise of Chapter 4 of the 1985 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

H. All inspections of building constructed or remodeled between September 1, 1981, and September 1, 1986 will be made utilizing the requirements set forth in the 1981 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506 Special Provisions for high rise of the *Standard Building Code* (1979 edition) of the Southern Building Code Congress International, Inc.

I. All inspections of buildings constructed or remodeled between January 1, 1980, and September 1, 1981, will be made utilizing the requirements set forth in the 1976 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 518C Special Provision for

High-Rise of Chapter 4 of the 1974 amendments to the 1973 *Standard Building Code*.

J. With regard to buildings constructed or remodeled between January 1, 1975 and January 1, 1980, inspections of those buildings will be made on the basis of requirements that the buildings meet the minimum requirements set forth in the 1973 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 518C Special Provision for High Rise of Chapter 4 of the 1974 amendments to the 1973 *Southern Standard Building Code*.

K. With regard to buildings constructed or remodeled prior to January 1, 1975, inspections by the Office of the State Fire Marshal shall be made utilizing the requirements set forth in the 1967 Edition of the *Life Safety Code* of the National Fire Protection Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 F.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981). LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:2257 (December 2001), repromulgated LR 29:183 (February 2003).

Jerry Jones
Undersecretary

0302#007

RULE

Department of Revenue Policy Services Division

Definition of Tangible Personal Property (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4301 relative to the definition of *tangible personal property* for sales tax purposes.

These amendments provide guidance regarding the definition of *tangible personal property* in R.S. 47:301(16) and describe items included in and excluded from that definition.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

* * *

*Tangible Personal Property*C

a. R.S. 47:301(16)(a) defines *tangible personal property* as personal property that can be seen, weighed, measured, felt, touched, or is perceptible to the senses. The Louisiana Supreme Court has ruled that *tangible personal property* is equivalent to corporeal movable property as defined in Article 471 of the Louisiana Civil Code. The

Louisiana Civil Code describes corporeal movable property as things that physically exist and normally move or can be moved from one place to another. Examples of *tangible personal property* include but are not limited to:

i. durable goods such as appliances, vehicles, and furniture;

ii. consumable goods such as food, cleaning supplies, and medicines;

iii. utilities such as electricity, water, and natural gas; and

iv. digital or electronic products such as "canned" computer software, electronic files, and "on demand" audio and video downloads.

b. Prepaid telephone cards and authorization numbers (for state sales or use tax purposes) and work products consisting of the creation, modification, updating, or licensing of canned computer software are specifically defined as *tangible personal property* by law.

c. Repairs of machinery, appliances, and equipment that have been declared immovable under Article 467 of the Louisiana Civil Code and things that have been separated from land, buildings, or other constructions permanently attached to the ground or their component parts as defined by Article 466 of the Louisiana Civil Code are treated as taxable repairs of *tangible personal property* under R.S. 47:301(14)(g).

i. Things are considered separated from an immovable when they are detached and repaired at a location off the customer's immediate property where the immovable is located or at the repair vendor's facility, even if that facility is on property owned, leased, or occupied by the customer. If the thing is detached from the immovable and repaired on the customer's immediate property, it is not considered separated from the immovable and the repair would not be subject to tax.

ii. The customer's immediate property is the tract of land that is owned, leased, or occupied by the customer where the immovable is located.

iii. Tracts of land owned, leased, or occupied by the customer that are separated only by a public road or right-of-way from the land where the immovable is located are also considered the customer's immediate property.

d. Tangible personal property does not include:

i. incorporeal property such as patents, copyrights, rights of inheritance, servitudes, and other legal rights or obligations;

ii. work products presented in a tangible form that have worth because of the technical or professional skills of the seller. Work products are considered non-taxable technical or professional services if the tangible personal property delivered to the client is insignificant in comparison to the services performed and there is a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred. These do not include items that have intrinsic value, like works of art, photographs, or videos. Also, documents that are prepared or reproduced without modification are considered tangible personal property. Examples of sales of technical or professional services that are transmitted to the customer in the form of tangible personal property include but are not limited to:

(a). audience, opinion, or marketing surveys;

- (b). research or study group reports;
- (c). business plans; and
- (d). investment analysis statements;
- iii. property defined as immovable by the Louisiana Civil Code
- e. Items specifically excluded from the definition of *tangible personal property* include:
 - i. stocks, bonds, notes, or other obligations or securities;
 - ii. gold, silver, or numismatic coins of any value;
 - iii. platinum, gold, or silver bullion having a total value of \$1,000 or more;
 - iv. proprietary geophysical survey information or geophysical data analysis furnished under a restrictive use agreement even if transferred in the form of tangible personal property;
 - v. parts and services used in the repairs of motor vehicles if all of the following conditions are met:
 - (a). the repair is performed by a dealer licensed by the Louisiana Motor Vehicle Commission or the Louisiana Used Motor Vehicle and Parts Commission;
 - (b). the repair is performed subsequent to the lapse of an original warranty that was included in the taxable price of the vehicle by the manufacturer or the seller;
 - (c). the repair is performed at no charge to the owner; and
 - (d). the repair charge is not paid by an extended warranty plan that was purchased separately.
 - vi. pharmaceuticals administered to livestock used for agricultural purposes as defined by the Louisiana Department of Agriculture and Forestry under LAC 7:XXIII.103; and
 - vii. work products of persons licensed under Title 37 of the Louisiana Revised Statutes such as legal documents prepared by an attorney, financial statements prepared by an accountant, and drawings and plans prepared by an architect or engineer for a specific customer. However, if these items are reproduced without modification, they are considered *tangible personal property* and subject to sales or use tax.
- f. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after June 30, 2001, are excluded from the definition of *tangible personal property* for state sales or use taxes. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after December 31, 2002, are excluded from the definition of *tangible personal property* for local sales or use taxes when the buyer certifies the manufactured or mobile home will be used as a residence.
 - i. For state sales taxes, the entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax.
 - ii. For local sales taxes when the buyer certifies the manufactured or mobile home will be used as a residence:
 - (a). after December 31, 2002, and before January 1, 2004C25 percent of the price paid for used manufactured or mobile homes and 13 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the

- definition of *tangible personal property* and not subject to tax;
 - (b). after December 31, 2003, and before January 1, 2005C50 percent of the price paid for used manufactured or mobile homes and 27 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax;
 - (c). after December 31, 2004, and before January 1, 2006C75 percent of the price paid for used manufactured or mobile homes and 40 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax; and
 - (d). after December 31, 2005Cthe entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax.
- iii. Manufactured or mobile homes are structures that are transportable in one or more sections, built on a permanent chassis, designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and include plumbing, heating, air-conditioning, and electrical systems. The units must be either 8 body feet or more in width or 40 body feet or more in length in the traveling mode, or at least 320 square feet when erected on site. These size requirements may be disregarded if the manufacturer voluntarily certifies to the distributor or dealer at the time of delivery that the structure conforms to all applicable federal construction and safety standards for manufactured homes.
- iv. Manufactured or mobile homes do not include modular homes that are not built on a chassis, self-propelled recreational vehicles, or travel trailers.
- g. The sale or purchase of custom computer software on or after July 1, 2002, and before July 1, 2005, is partially excluded, and on or after July 1, 2005, completely excluded, from the definition of *tangible personal property* under R.S. 47:301(16)(h). This exclusion applies to state sales tax, the sales tax of political subdivisions whose boundaries are coterminous with the state, and the sales tax of political subdivisions whose boundaries are not coterminous with the state that exempt custom computer software by ordinance as authorized by R.S. 47:305.52. Custom computer software is software that is specifically written for a particular customer or that adapts prewritten or "canned" software to the needs of a particular customer.
 - i. Before July 1, 2002Cpurchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software before July 1, 2002, are considered purchases of *tangible personal property* for resale. Use tax is not due on these purchases and any sales tax paid is eligible for tax credit against the tax collected on the retail sale of the custom software.
 - ii. Phase-In Period—the sales tax exclusion for custom computer software will be phased in at the rate of 25 percent per year beginning on July 1, 2002. During the phase-in period, purchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software will be considered a purchase for

resale according to the applicable sales tax exclusion percentage in effect at the time of sale. The custom software vendor must pay sales tax on the purchase price of the canned software and may claim tax credit for the percentage that is resold as *tangible personal property*. If 75 percent of the sales price of the custom computer software is taxable, the vendor is allowed a tax credit for 75 percent of tax paid on the canned software purchase. Conversely, if sales tax was not paid by the custom software vendor on the purchase of canned software that is incorporated into custom software, use tax will be due on the percentage that is not considered to be a purchase for resale. The sales tax exclusion percentage will increase each year during the phase-in period and guidelines on the phase in of this exclusion will be published in a Revenue Ruling.

iii. July 1, 2005Cthe purchase of prewritten or canned software that is incorporated into and resold as a component of custom computer software sold on or after July 1, 2005, will be considered the purchase of *tangible personal property* for the personal use of the custom software vendor and subject to sales or use tax.

h. The *first purchase* of *digital television conversion equipment* by a taxpayer that holds a Federal Communications License issued pursuant to 47 CFR Part 73 is excluded from the definition of *tangible personal property* for state sales tax and local sales tax if the local authority adopts this exemption by ordinance.

i. *Digital Television Conversion Equipment*C items listed in R.S. 47:301(16)(i).

ii. *First Purchase*Cthe *first purchase* of each item from the categories of *digital television conversion equipment* listed in R.S. 47:301(16)(i).

iii. License holders may obtain a credit for sales taxes paid on the *first purchase* of *digital television conversion equipment* made after January 1, 1999, and before June 25, 2002, by submitting a request on forms prescribed by the Department of Revenue. Guidelines for claiming the credit will be published in a Revenue Ruling.

iv. License holders may obtain an exemption certificate from the Department of Revenue and make *first purchases* of qualifying digital equipment on or after June 25, 2002, without paying state sales tax or local sales tax in those local jurisdictions that elect to provide an exemption for these purchases. Sales tax paid on *first purchases* of qualifying digital equipment on or after June 25, 2002, may be refunded as tax paid in error.

v. License holders must submit to the Department of Revenue an annual report of the purchases of digital equipment for which exclusion has been claimed that includes all information required by the Department to verify the value of exclusion claimed. Guidelines for submitting this report will be published in a Revenue Ruling.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002),

LR 28:1488 (June 2002), LR 28:2554 (December 2002), LR 28:2556 (December 2002), LR 29:186 (February 2003).

Raymond E. Tangney
Senior Policy Consultant

0302#013

RULE

Department of Revenue Policy Services Division

Sales Tax on Property Used in Interstate Commerce (LAC 61:I.4420)

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.4420 relative to the sales tax exemption set forth in R.S. 47:305.50 for vehicles used in interstate commerce.

This Rule provides guidance on the length of time vehicles must be used in interstate commerce in order to qualify for the exemption. It also discusses the consequences if a taxpayer claims the exemption at the time of purchase and subsequently does not qualify for the exemption.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4420. Property Used in Interstate Commerce

A. R.S. 47:305.50(A) allows certain taxpayers to register trucks with a gross weight of 26,000 pounds or more, trailers to be used with such trucks, and contract carrier buses with the Office of Motor Vehicles of the Department of Public Safety and Corrections (OMV) without paying state or local sales or use tax. To qualify for the exemption, the taxpayer's activities must be subject to the jurisdiction of the United States Department of Transportation, and the taxpayer must certify to the OMV that the property will be used at least 80 percent of its total mileage in interstate commerce. The Department of Revenue and the OMV provide forms on which to make these certifications.

B. Any taxpayer who claims the exemption provided for in R.S. 47:305.50(A) must maintain records of the use of the property in order to document that the property is used for at least 80 percent of its total mileage in interstate commerce.

1. If the documentation indicates that the property was not used during the one-year period following the date of its purchase for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will not qualify for the exemption and state and local sales or use tax will be due on the amount paid for the property at the rate that was applicable on the date the property was purchased, plus interest from the date the property was purchased to the date of the tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer fails to qualify for the

exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

2. If, during any of the following one-year periods, the documentation indicates that the property was not used for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will no longer qualify for the exemption. If this occurs, state and local sales or use tax will be due on the lesser of the purchase price or fair market value of the property on the first day of the one-year period that it does not meet the 80 percent test. The tax will be calculated based on the rate in effect on the first day of the one-year period in which the taxpayer no longer qualifies for the exemption, plus interest from the date the tax is due to the date of tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer no longer qualifies for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

C. If the taxpayer fails to provide proper documentation, it will be presumed that the taxpayer does not qualify for the exemption and state and local sales or use tax will be due in accordance with Subsection B above.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:305.50 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:188 (February 2003).

Raymond E. Tangney
Senior Policy Consultant

0302#016

RULE

**Department of Social Services
Office of Family Support**

**Child Care Assistance Programs CIncentive Bonuses
(LAC 67:III.5102 and 5107)**

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance.

Pursuant to Act 152 of the 2002 First Extraordinary Session of the Louisiana Legislature, funds from Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant were appropriated for improving the quality of low-income child care. With this goal in mind, the agency increased the incentive bonus paid to Class A providers who attain National Association for the Education of Young Children (NAEYC) accreditation.

Additionally, the agency is offering an incentive bonus to Family Child Day Care Home (FCDCH) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program.

These changes were effected by Declaration of Emergency effective October 1, 2002. Authorization for emergency

action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter B. Child Care Assistance Program

§5102. Definitions

* * *

Full-Time Care Authorized child care calculated to be 30 or more hours per week that is paid in units of days with a maximum of 22 days per month.

* * *

Part-Time Care Authorized child care calculated to be less than 30 hours per week, paid in units of hours (total per day may not exceed daily rate) up to a maximum of 129 hours per month.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:189 (February 2003).

§5107. Child Care Providers

A. - E.4. ...

F.1. Quality incentive bonuses are available to:

a. CCAP eligible Class A providers who achieve and maintain National Association for the Education of Young Children (NAEYC) accreditation. The bonus will be paid once each calendar quarter, and will be equal to 20 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

b. CCAP eligible Family Child Day Care Home (FCDCH) providers who participate in the Department of Education (DOE) Child and Adult Care Food Program. The bonus will be paid once each calendar quarter, and will be equal to 10 percent of all child care payments received during the prior calendar quarter by that provider from the certificate portion of the Child Care and Development Fund.

2. These bonus amounts may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

G Repealed.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:189 (February 2003).

Gwendolyn P. Hamilton
Secretary

0302#053

RULE

**Department of Social Services
Office of Family Support**

TANF Initiatives
(LAC 67:III. 5533 and 5561-5571)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, has adopted LAC 67:III, Subpart 15, Chapter 55, §§5561, 5563, 5565, 5567, 5569, and 5571 as TANF Initiatives and has amended §5533.

All programs have been effected by several Declarations of Emergency. Section 5561 was effected by an Emergency Rule signed September 1, 2002, and Section 5563 by an Emergency Rule signed September 10, 2002. The adoption of Sections 5565, 5567, 5569, and 5571 and the amendment to Section 5533 were effected by an Emergency Rule signed September 30, 2002.

**Title 67
SOCIAL SERVICES
Part III. Family Support**

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

§5533. Transportation Services Program

A. Effective September 30, 2002, the agency shall enter into contracts with public agencies, non-profit, or for-profit organizations to provide low-income families with transportation services to assist them in overcoming transportation barriers. These services may include but are not limited to: vehicle ownership, commuter shuttles, reverse-commute shuttles, vanpools, and other modes of transportation. The agency may also make funding available for transportation of participants in TANF Initiative Programs.

B. Eligibility for services is limited to persons participating in a TANF Initiative Program or to members of a needy family. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, and caretaker relatives of minor children, who have earned income at or below 200 percent of the federal poverty level. An eligible person who is employed may be provided on-going services. An eligible, unemployed person may be provided short-term, non-recurrent services that shall not exceed four months and shall be associated with an episode of need or crisis situation.

C. Services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives or to end dependence of needy parents by promoting job preparation, work, and marriage.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), LR 29:190 (February 2003).

**§5561. Child-Parent Enrichment Services Program
Effective September 1, 2002**

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting programs at various sites, such as schools, Head Start Centers, churches, and Class A Day Care Centers to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services.

B. Services offered by providers meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver.

C. Eligibility for services is limited to needy families. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.
AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003).

§5563. Substance Abuse Treatment Program for Needy Families

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families to the extent that funds are available commencing June 1, 2002.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at

or below 200 percent of the federal poverty level. A needy family includes a non-custodial parent, caretaker relative, or legal guardian who has earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003).

§5565. Family Strengthening and Healthy Marriages Effective September 30, 2002

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to provide services to improve and promote family relationships, encourage marriage, reduce incidence of out-of-wedlock births, decrease the rate of divorce, and provide services that will educate and supply young people with the guidance to break the cycle of living in fatherless homes. These intervention and support services are designed to enable low-income parents to act in the best interest of their children.

B. Services offered by providers meet the TANF goals to end dependence of needy parents by promoting job preparation, work, and marriage, to prevent and reduce the incidence of out-of-wedlock births, and to encourage the formation and maintenance of two-parent families and may be accomplished through a variety of projects including but not limited to:

1. development of an information clearing house;
2. best practices research;
3. development of a statewide network of marriage trainers and additional partners such as health care providers, members of the judiciary, and faith-based partners, to assist in implementing the initiative; and
4. development of handbooks and videos, media buys for outreach, curriculum development, and demonstration projects.

C. Eligibility for services is limited to needy families which consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children who have earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003).

§5567. Parental Involvement Services Program Effective September 30, 2002

A. The Office of Family Support shall enter into contracts to provide pro bono or low cost legal services that may include: mediation; development of parenting plans or other services to obtain regular visitation arrangements with the children; or legal assistance to non-custodial parents in resolving disputes resulting from a deviation in an existing visitation order. Referrals that assist low-income, non-custodial parents to overcome social, financial, and emotional barriers that hinder access to their children will also be provided. These services are designed to enable

low-income parents to act in the best interest of their children.

B. These services meet the TANF goals to end dependence of needy parents by promoting job preparation, work, and marriage, to prevent and reduce the incidence of out-of-wedlock births, and to encourage the formation and maintenance of two-parent families by improving the parent's ability to act in the best interest of their children, providing the children continuous and quality access to both parents, improving the well-being of the children, and encouraging healthy relationships, youth development, and responsible fatherhood.

C. Eligibility for services is limited to non-custodial parents of minor children who have earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003).

§5569. Alternatives to Abortion Services Program Effective September 30, 2002

A. The Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to provide intervention services including crisis intervention, counseling, mentoring, support services, and pre-natal care information, in addition to information and referrals regarding healthy childbirth, adoption, and parenting to help ensure healthy and full-term pregnancies as an alternative to abortion.

B. These services meet the TANF goals to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives and to encourage the formation and maintenance of two-parent families by providing pregnancy and parenting support to low-income women, their male partners, and families who are experiencing an unplanned pregnancy.

C. Eligibility for services is limited to pregnant or potentially pregnant women, their male partners, and/or minor children whose earned income is at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003).

§5571. Parenting/Fatherhood Services Program Effective September 30, 2002

A. The Office of Family Support shall enter into contracts with public agencies, non-profit, or for-profit organizations to create programs that will assist low-income fathers with various skills including employment, life, parenting, and other skills in order to increase their ability to provide emotional and financial support for their children, and to create a network of community- and faith-based programs that will provide linkages to and for state entities, specifically Child Support Enforcement Services.

B. These services meet the TANF goals to end the dependence of needy parents by promoting job preparation,

work, and marriage, to prevent and reduce the incidence of out-of-wedlock births and to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial, and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited to fathers of minor children, who have earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.
 AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003).

Gwendolyn P. Hamilton
 Secretary

0302#054

RULE

**Department of Transportation and Development
 Office of the Secretary**

Cash Management Plan
 (LAC 70:I.101 and 103)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development has amended Chapter 1 of Title 70 entitled "Cash Management Plan," in accordance with R.S. 48:251(D).

**Title 70
 TRANSPORTATION
 Part I. Highway Construction**

Chapter 1. Cash Management Plan

§101. Phased Funding

A. The department is authorized to utilize cash management on multi-fiscal year projects which exceed the contract limit established in R.S. 48:251. The department is authorized to allocate only sufficient appropriated funds in any fiscal year to pay for anticipated actual contract obligations incurred in that fiscal year. A multi-fiscal year phased funding plan will be developed for each project approved by the secretary for phased funding. The phased funding plan will provide annual anticipated expenditure projections over the life of the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 24:1324 (July 1998), amended by the Department of Transportation and Development, Office of the Secretary, LR 29:192 (February 2003).

§103. Project Eligibility for Phased Funding

A. In order to qualify for phased funding, the proposed project must be a multi-fiscal year project which exceeds the contract limit established in R.S. 48:251.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR. 24:1324 (July 1998), amended by the Department of

Transportation and Development, Office of the Secretary LR 29:192 (February 2003).

Kam K. Movassaghi, P.E., Ph.D.
 Secretary

0302#050

RULE

**Department of Treasury
 Office of the Treasurer**

Title 71 Restructure CParts I, III, and VII
 (LAC 71:I.Chapter 5, III.Chapters 21-23, and VII.Chapter 1)

Editor's Note: The following Chapters have been moved for topical arrangement. These changes will be reflected in the September 2002 LAC compilation of Title 71.

The table below shows the former and the current placement of each Chapter that was moved.

Former Placement	(New) Current Placement
LAC 71:I.Chapter 5	LAC 71:III.Chapter 21
LAC 71:I.Chapter 7	LAC 71:III.Chapter 23
LAC 71:I.Chapter 9	LAC 71:VII.Chapter 1
LAC 10:XIII.Chapter 21	LAC 71:I.Chapter 5

**Title 71
 TREASURY**

Part I. Public Funds Investments

Chapter 5. Permissible Investments

§501. U.S. Government Agency Obligations

A. Pursuant to R.S. 49:327(B)(1)(b), obligations of or obligations guaranteed by, any of the following agencies, instrumentalities, or government-sponsored entities of the United States Government, or their successor agencies, universally referred to in the investment community as "agency securities," shall be eligible for investment by the treasurer:

1. Government National Mortgage Association;
2. Maritime Administration;
3. Small Business Administration;
4. Federal Home Loan Bank consolidated discount notes, notes, debentures and bonds;
5. Federal Home Loan Mortgage Corporation discount notes, notes, debentures, bonds, participation certificates, guaranteed mortgage backed securities, collateralized mortgage obligations and adjustable rate mortgages;
6. Federal National Mortgage Association discount notes, short-term notes, master notes, floating rate notes, notes, debentures, subordinated debentures, bonds, guaranteed mortgage backed securities, and adjustable rate mortgages;
7. Farm Credit System consolidated system-wide discount notes, notes and bonds;
8. Student Loan Marketing Association discount notes, floating rate notes, notes and bonds.

B. The securities named above as being issued by each agency are illustrative only. Since agencies periodically issue a new form of security with the similar guarantees, any such guaranteed security issued by the above referenced agencies shall be eligible for investment by the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327(B)(1)(b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), repromulgated LR 29:192 (February 2003).

§503. Time Certificates of Deposit

A. Noncompetitive Bid Procedures for Time Certificates of Deposit. The state treasurer shall designate the amount of state funds available for time certificates of deposit to financial institutions in the state of Louisiana.

1. Frequency of Rate Setting. Each Tuesday, or in the case of a holiday, the first business day following the holiday, the state treasurer shall set interest rates to be paid on certificates of deposit. This interest rate shall remain in effect until the next Tuesday or first business day following the holiday.

2. Procedure for Time Certificates of Deposit Maturing One Year or Less. The interest rate shall be determined by the following procedure for certificates of deposit maturing one year or less:

a. The following interest rates shall be surveyed on the day the interest rate is set and averaged to determine the interest rate.

i. National Certificates of Deposit which is the average of the top rates paid by major New York money banks on primary new issues of negotiable certificates of deposits, usually on amounts of \$1,000,000 or more with similar length of maturity as quoted from the *Wall Street Journal* or a nationally recognized quotation system or the National Average of Jumbo Certificates of Deposit as compiled by Bancquote Money Markets cited in the *Wall Street Journal* or a nationally recognized quotation system, less 15 basis points.

ii. U.S. Treasury Obligation with similar length of maturity at the bond equivalent rate adjusted for a 360-day basis obtained from the current auction or *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered on published jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the state treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institution shall be ranked by size as follows:

(a) small: \$0-\$100 million in total assets;

(b) large: greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §503.A.2.a.i, ii and iii. This interest rate shall be compared to the minimum interest rate in §503.A.2.b.

Whichever rate is higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. The treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is determined appropriate by the treasurer to protect state funds.

3. Procedure for Time Certificates of Deposit Maturing Greater than One Year. The interest rate shall be determined by the following procedure for certificates of deposit maturing greater than one year.

a. The following interest rates shall be surveyed on the day the interest rate is set and averaged to determine the interest rate.

i. U.S. Treasury Obligation with similar length of maturity calculated on yield to maturity obtained from the current auction or *Wall Street Journal*.

ii. Agencies. Any one of the agencies listed in §501 with similar length of maturity calculated on yield to maturity obtained from the *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered of jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the state treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institutions shall be ranked by size as follows:

(a) small: \$0-\$100 million in total assets;

(b) large: greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of greater than one year, the minimum interest rate shall be the yield to maturity on U.S. Treasuries with similar length maturities.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §503.A.3.a.i, ii and iii. This interest rate shall be compared to the minimum interest rate in §503.A.3.b. Whichever rate is the higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the treasurer to protect state funds.

B. Competitive Bid Time Certificates of Deposit. Pursuant to R.S. 49:327(B)(1)(d), 20 percent of the amount designated by the treasurer to be available for certificates of deposit to financial institutions in the state of Louisiana may be competitively bid.

1. Frequency of Bid. On the third Tuesday of each month, or in the case of a holiday, the first business day following the third Tuesday of each month, the state treasurer may offer the amount of funds determined to be available for competitive bid to be invested effective on the second business day following the acceptance of the bids. Should additional funds become available for competitive bid, the state treasurer reserves the right to offer such funds for bid on any business day.

2. Eligibility to Bid.

a. A financial institution shall become eligible to bid on the designated amount of state funds by annually completing a questionnaire by which the financial institution shall certify the following:

i. each financial institution shall state the amount of state funds it will be able to accept for bid. Refer to §503.C for the total maximum amount of certificates of deposit which shall be allowed to be maintained by each financial institution;

ii. meets Federal Deposit Insurance Corporation (FDIC), Savings Association Insurance Fund (SAIF), Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund and National Credit Union Association (NCUA) capital adequacy requirements;

iii. solvent under generally accepted accounting principles and/or regulatory accounting requirements;

iv. the financial institution is profitable in one of the last three years as indicated in the audited financial statements or fiscal year end financial statements certified by the board of directors of the financial institution.

b. Should the overall financial condition of the financial institution substantially decline from the previous period, the state treasurer shall remove this financial institution from the list of eligible bid institutions until the institution's financial condition has returned to the minimum criteria stated above.

3. Required Financial Information. The financial institutions participating in the bid process for certificates of deposit shall provide the state treasurer's office with publicly disclosable quarterly call reports when filed with the appropriate regulatory authority. The complete quarterly call report shall be sent to the state treasurer in 90 days from the end of the quarter. Annual audited financial statements or financial statements certified by the board of directors, if annual audited statements are not available, shall be provided to the state treasurer upon completion.

4. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity. For maturities of greater than one year, the minimum interest rate shall be the yield of maturity on U.S. Treasury Obligations with similar length maturities as provided for in §503.A.2.b and §503.A.3.b.

5. Determination of Rate. The state treasurer shall determine the amount of funds available for competitive bid. Bids will be opened for the available amount of funds from 9 a.m. to 12 p.m. on the third Tuesday of each month, or in the

case of a holiday, the first business day following the third Tuesday of each month. Those financial institutions eligible under §503.B.2 and who are interested in bidding for available state funds may call the state treasurer's office from 9 a.m. to 12 p.m. on the day designated and bid on the state funds indicating a dollar amount and interest rate. The highest interest rate bid shall be accepted provided that the interest rate is the same as or above the minimum rate in §503.B.4 and deemed acceptable to the state treasurer. The state treasurer reserves the right to reject all bids. The winners of the bid(s) will be notified by phone between 1 p.m. and 4:30 p.m. on the same day. The financial institutions winning the bid shall confirm in writing the amount and interest rate the financial institution bid by telephone. The certificates of deposit shall be effective on the second business day after acceptance of the bid(s). Upon receipt of acceptable collateral on the effective date, the state treasurer shall wire the appropriate amount of funds to the financial institution. Interest shall begin to accrue on the second business day after the acceptance of the bid(s).

6. Collateral for Competitive Bid Time Certificates of Deposit. Collateral for competitive bid time certificates of deposit shall be in a form acceptable to the state treasurer as indicated on the most recent list of acceptable collateral prepared by the state treasurer's office. Such a list is available upon request. Should the state treasurer deem it necessary to limit the acceptable collateral, each bidder shall be notified of such change prior to the bid.

7. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. All certificates of deposit maturing greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The state treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the state treasurer to protect state funds.

C. Total Amount of Certificates of Deposit with each Financial Institution. The maximum total amount of certificates of deposit with each eligible financial institution of bid and nonbid certificates shall not exceed at any one time, the total capital, surplus and undivided profits, exclusive of loan loss reserves. Should the financial institution have losses indicated, the loss shall be deducted from the total capital and surplus to determine the total amount of certificates of deposit at any one time. The total amount of certificates of deposit shall be determined based on the latest annual financial statements available which have been certified by the secretary of the board. This determination shall be set annually in April. The state treasurer reserves the right to maintain less than the maximum amount of deposits with the financial institution should the treasurer deem it in the best interest of the state. Section 503.C shall be phased in over a one-year period commencing January 1, 1990.

D. Collateral Securing Certificates of Deposit

1. Each financial institution shall submit a signed collateral agreement as issued by the treasurer in order to be eligible for both bid and nonbid certificates of deposit. This

requirement shall be effective upon completion of the collateral agreement by the state treasurer.

2. All collateral securing certificates of deposit shall be in a form acceptable to the treasurer and meet the collateral requirements under R.S. 49:321.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327(B)(1)(b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15:751 (September 1989), amended LR 16:137 (February 1990), repromulgated LR 29:193 (February 2003).

Part III. Bond Commission Debt Management

Chapter 21. Electronic Bidding

§2101. General Provisions

A. Bids for general obligation bonds of the state may be received by the state bond commission through sealed bids, electronic bids or facsimile bids as provided herein. Bids received electronically must be submitted via a qualified electronic bid provider, as determined by the State Treasurer, and as set forth in the Notice of Sale for the bonds. Bidders submitting a bid electronically must provide a signed official bid form to the state bond commission not later than 4 p.m. (Baton Rouge time) on the day prior to the opening of bids. In the event that there is a malfunction in the electronic bidding system, bids may be submitted by facsimile as set forth in the Notice of Sale for the bonds, provided that the facsimile bids are received within the time limits set forth in the Notice of Sale. Delivery of a bid is at the risk of the bidder.

AUTHORITY NOTE: Promulgated by the Department of Treasury, State Bond Commission, R.S. 47:5010.

HISTORICAL NOTE: Promulgated by the Department of Treasury, State Bond Commission, LR 26:1675 (August 2000), repromulgated LR 29:195 (February 2003).

Chapter 23. Surety Bond Deposit

§2301. General Provisions

A. Bidders for general obligation bonds of the state must furnish a good faith deposit in the amount of two percent of the par value of the bonds (the deposit) offered for sale in the form of a certified check or cashier's check or by surety bond. If a check is used, it must accompany each sealed bid. For an electronic bid or a facsimile bid as authorized by the Electronic Bidding Rule, the check must be provided in advance of the submission of the bid. Such check must be drawn on a bank or trust company authorized to transact business in the state of Louisiana or in the state of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the state of Louisiana. Any surety bond must be from an insurance company licensed to issue such a bond in the state of Louisiana and such bond must be submitted to the state bond commission prior to the opening of the bids. The surety bond must identify each bidder whose deposit is guaranteed by such surety bond. If the bonds are awarded to a bidder utilizing a surety bond, then the successful bidder is required to submit its deposit to the state bond commission in the form of a certified check or cashier's check drawn on a bank or trust company authorized to transact business in the state of Louisiana or in the state of New York, payable to or in favor of the State Treasurer of Louisiana on behalf of the state of Louisiana (or wire transfer such amount as instructed by the state bond commission) not later than 2 p.m. (Baton Rouge time) on the next business day following the award. If such good faith

deposit is not received by that time, the surety bond will be drawn on by the state to satisfy the deposit requirement. No interest on the deposit will accrue to the successful bidder. The deposit will be applied to the purchase price of the bonds. In the event the successful bidder fails to honor its accepted bid, the deposit will be retained by the state. Delivery of the deposit is at the risk of the bidder.

AUTHORITY NOTE: Promulgated by the Department of Treasury, State Bond Commission, R.S. 47:5010.

HISTORICAL NOTE: Promulgated by the Department of Treasury, State Bond Commission, LR 26:1675 (August 2000), repromulgated LR 29:195 (February 2003).

Part VII. Administration

Chapter 1. Credit Card Acceptance by State Agencies

§101. Purpose

A. It is the intent of the state to accept payment of any obligation including, but not limited to, taxes, fees, charges, licenses, service fees or charges, fines, penalties, interest, sanctions, stamps, surcharges, assessments, obligations or any other similar charges by credit cards, debit cards or similar payment devices approved by the treasurer. The state recognizes the expanding role of electronic commerce ("e-commerce") in conducting business and the state is taking steps to become an active participant with the development of the "E-Mall," the state's one-stop shopping internet web site. Electronic payment methods, including credit cards, debit cards and similar devices is a vital link in "e-commerce". In order to incorporate these payment methods, Treasury has developed and promulgated guidelines in accordance with R.S. 49:316.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:736 (May 2001), repromulgated LR 29:195 (February 2003).

§103. Definitions

Payment CardCa valid credit or debit card or similar payment device which is designated by the treasurer as acceptable by any state entity to make payment for any state obligations.

Card Providerthe issuer of a credit card, debit card or similar device who has contracted with Treasury for acceptance of their payment card or a financial institution which has contracted with Treasury for processing of card payments.

Card Holderthe person a credit card, debit card or similar device has been issued or an authorized user of a payment card.

Obligationtaxes, fees, charges, licenses, service fees or charges, fines, penalties, interest, sanctions, stamps, surcharges, assessments, obligations and any other similar charges or obligations.

Provider Billingsthe manner in which the card providers will bill the state for the settled card payment transactions.

State ChargeCa fee established by the treasurer in the form of a uniform dollar amount or percentage assessed for all types of cards or devices accepted by state entities.

Merchant Account Numberthe account number assigned by the *card provider* to the state entity.

State ChargeCa fee established by the treasurer in the form of a uniform dollar amount or percentage assessed for each card or device and for each method of conducting transactions to be accepted by state entities.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:736 (May 2001), amended LR 28:2205 (October 2002), repromulgated LR 29:195 (February 2003).

§105. Application for Credit Card or Similar Devices

A. The treasurer will negotiate and enter into contracts, with card provider(s) not to exceed five years, for acceptance of credit card, debit card and similar payment devices. The treasurer will seek to achieve uniform implementation and standard terms and provisions with respect to the acceptance of payments by state entities. A state entity may recommend that the treasurer consider a specific credit or debit card for approval. Annually, the treasurer will publish on the treasurer's website a list of approved credit card, debit card or similar devices by which any state entity will be authorized to accept for payment of any obligation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), repromulgated LR 29:196 (February 2003).

§107. Acceptance of Cards by the State Entities

A. The state, through any department, agency, board or commission or other state entity, may accept payment of any obligation by credit card, debit card and similar payment devices approved by the Treasurer. Each entity will apply for participation by completing a merchant service agreement. The original completed application must be delivered to treasury. Treasury will review the application for correctness and forward the application to the card provider for processing.

B. The agency may not set a per order minimum and/or maximum dollar transaction amount that an agency may accept payment by a payment card in compliance with card service agreements. State entities shall not institute or adopt any practice that discriminates or provides unequal treatment for any payment card versus any other payment card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), repromulgated LR 29:196 (February 2003).

§109. Operating Procedures

A. Treasury will determine procedures that state entities must comply with to accept payment by payment card(s). These procedures, may be modified from time to time, to accommodate the state's accounting policies or treasury contract(s) for acceptance of payment card(s). Treasury will provide written procedures to participating state entities. These procedures will provide uniform implementation and standard terms and conditions for acceptance of payments by state entities. These procedures will determine:

1. the manner in which authorization is obtained by state agencies prior to making the card sales;
2. preparation of sales slips;
3. handling of card member refunds and credits;
4. settlement of transactions;
5. charge back rights;
6. card member disputes;
7. billing inquires;
8. retention of records; and
9. any other contract matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), repromulgated LR 29:196 (February 2003).

§111. State Charge

A. Treasury, from time to time, will negotiate with card providers for a fee for processing payment card transactions with state entities. Treasury will seek to achieve reasonable fees that reflect the economies of scale achieved by negotiation. The fees may be composed of a percentage and/or a specific dollar amount as determined by treasury and the card providers.

B. The state charges shall encompass these various fees charged by card providers and include other applicable fees including fees by third party processors, or fees assessed by providers of Internet payment processing services. The state charges shall be in the form of a uniform dollar amount or percentage assessed for each card or device and for each method of conducting transactions to be accepted by state entities. The state charges will be revised from time to time and the treasurer shall notify state entities of the revised state charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), amended LR 28:2205 (October 2002), repromulgated LR 29:196 (February 2003).

§113. Fees

A. Each state entity shall assess a state charge for each payment transaction a payment card is accepted.

B. The state charge will be classified by the state entity into a fund designated by the treasurer. Each card issuer will provide to the treasurer and the entity a monthly billing detailing the amount of charges by merchant name and merchant account number. The entity will review the monthly billing and pay the invoice from the fund pursuant to an appropriation for this purpose by the legislature.

C. Each state entity will review the monthly billings and resolve discrepancies directly with the card provider(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001), repromulgated LR 29:196 (February 2003).

0302#005

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Wild Quadrupeds Game Breeder's License
(LAC 76:V.107)

The Wildlife and Fisheries Commission has amended the Section on white-tailed deer within the Game Breeder's License Rule.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§107. Game Breeder's License

A. - B.7. ...

8. Whitetail Deer or Other North American Deer

a. Except as specified herein, licenses will not be issued. Licenses will not be issued unless pens are completed and complete applications are received in the Wildlife Division Baton Rouge Office by 4:30 p.m. October 4, 2002. Pens must be inspected before a license will be issued. If at the time of inspection, pens do not meet the requirements of this Rule, a license will not be issued and the application will not be reconsidered. Persons with valid licenses issued prior to this prohibition will be "grandfathered" and licenses may be renewed if all requirements are met. Licenses cannot be transferred beyond immediate family (father, mother, brother, sister, husband, wife, son and daughter). A license may be transferred to an immediate family member only if the pen remains in the original location. Qualified zoos, educational institutions and scientific organizations may be exempted on a case by case basis.

b. No license will be issued in metropolitan or urban areas. A rural environment is required to keep these animals. Qualified zoos, educational institutions and scientific organizations will be exempted on a case by case basis.

c. Single Animal: 5,000 square feet paddock or corral (For example: 50 feet wide x 100 feet long); increase corral size by 2,500 square feet for each additional animal; shelter required. Pen site must be well drained so as to prevent extended periods of standing water.

d. Materials: Chain link or other satisfactory woven wire, 12 gauge minimum, 8 feet high minimum. Welded wire is not acceptable.

e. Licensed game breeders are required to report all deaths of deer to a regional Wildlife Division Office within 48 hours of the time of death and preserve the carcass as instructed by the Wildlife Division, but are encouraged to report the death sooner if possible.

B.9. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:171.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:631 (September 1988), amended LR 18:1134 (October 1992), LR 21:1355 (December 1995), LR 29:196 (February 2003).

James H. Jenkins, Jr.
Secretary

0302#039

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Horticulture and Quarantine Division
Boll Weevil Eradication Commission**

Program Participation, Fee Payment and Penalties
(LAC 7:XV.321)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry hereby proposes to amend regulations regarding the Boll Weevil Eradication Program.

The Department of Agriculture and Forestry intends to amend these rules and regulations for the purpose of establishing a deadline for cotton producers to request a waiver of the assessment on any acre of cotton planted for a crop year. These Rules are enabled by R.S. 3:1609, 1612, 1613.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 3. Boll Weevil

§321. Program Participation, Fee Payment and Penalties

A. - B.2. ...

3. A waiver of the assessment on any acre planted in cotton for a crop year may be requested and obtained in accordance with the following procedure.

a. A cotton producer may request a waiver of the assessment on any acre planted in cotton for a crop year if a written request for a waiver is received by the commission, through mail, fax or other form of actual delivery, on or before 4:30 p. m. on August 1 of the crop year for which the waiver is requested. A written request for a waiver will be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax shall be considered timely only upon proof of the commission's receipt of the transmission.

b. The written request for a waiver must show the name of the cotton producer, the field number, the number of acres for which a waiver is requested, the date the acres were failed, the reasons the waiver is being requested and a certification that all living cotton plants and cotton stalks were destroyed prior to July 15 of the crop year and that the acreage will remain void of all living cotton plants through December 31 of the same crop year.

c. Each cotton producer who has timely filed a request for a waiver with the commission shall be notified of the date, time and place the commission is scheduled to consider the request for a waiver at least 10 days prior to the commission meeting.

d. The granting of a waiver is within the discretion of the commission.

e. A cotton producer, whose timely request for a waiver is denied by the commission, shall be entitled to pay his assessment without imposition of a per acre penalty fee if he pays the assessment within 30 days after receiving written notification of the commission's decision.

B.4. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture & Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:669 (July 1995), amended LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:

Family Impact Statement

The proposed amendments to LAC 7:XV.321 for the purpose of establishing a deadline for cotton producers to request a waiver of the assessment on any acre of cotton planted for a crop year, should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through March 25, 2003, to Dr. John Andries, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble concerning the proposed Rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Program Participation, Fee Payment and Penalties

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no increase in costs or savings to state or local governmental units.

The purpose of this Rule is to establish a deadline for cotton producers to request a waiver of the assessment on any acre of cotton planted for a crop year; to inform cotton producers of the information required in the initial request and to reorganize and clarify language of the already established rules and regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no effect on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0302#059 Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
C Louisiana Principal/Assistant Principal Induction Program
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975).

The proposed changes to Standard 1.016.10 will change the name of the Louisiana Principal/Assistant Principal Internship Program to the Louisiana Principal/Assistant Principal Induction Program. This will lessen the confusion between the state sponsored program mandated by SBESE

and the required internship component for university programs in Educational Leadership.

The proposed changes will also include administrative assistants and acting principals/assistant principals in the program that will provide support and build capacity of these administrators to provide leadership in both instructional and administrative areas during their first year(s) in a school leadership role.

With the development and implementation of a standards-based induction program in 1999-2000 in which assistant principals and first-year principals participate in a parallel program, it is necessary to ensure continuity and a logical transition as the administrator moves along the career path from assistant principal to principal. As a result of these proposed changes, the waiver which allowed principals to request an exemption from participation in year two of the program based on five years of administrative experience and participation in the Administrative Leadership Academy will no longer apply if their participation in the program was prior to 1998.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§901. School Approval Standards and Regulations**

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

System Policies and Standards	School Policies and Standards
<p>1.016.10 All newly appointed principals and assistant principals with standard or provisional certification shall participate in the Principal/Assistant Principal Induction Program.</p> <p>The program shall include the following: Individuals appointed to a principalship or an assistant principalship after October 1 shall be enrolled in the Principal Induction Program at the beginning of the following school year.</p> <p>Principal/Assistant Principal Induction requirements shall also apply to individuals serving in the following leadership capacities:</p> <ul style="list-style-type: none"> • Administrative Assistant: fully certified and serving in a full-time, full-year administrative capacity. • Acting Principal or Assistant Principal: fully certified and serving in a full-time, full-year administrative capacity. <p>A newly appointed principal who successfully completed the Assistant Principal Induction Program in 1999-2000 shall complete only Year One requirements of the Principal Induction Program.</p> <p>A newly appointed principal who successfully completed the Assistant Principal Induction Program in 2000-2001 shall complete only Year Two requirements of the Principal Induction Program.</p> <p>A newly appointed principal who did not complete the Assistant Principal Induction Program or completed the program in 1998 or before shall complete the two-year requirements of the Principal Induction Program.</p> <p>Upon successful completion of two years of the Induction Program requirements, an individual may request to have provisional status removed from their certificate.</p>	<p>2.016.10 All newly appointed principals and assistant principals with standard or provisional certification shall participate in the Principal/Assistant Principal Induction Program.</p> <p>The program shall include the following: Individuals appointed to a principalship or an assistant principalship after October 1 shall be enrolled in the Principal Induction Program at the beginning of the following school year.</p> <p>Principal/Assistant Principal Induction requirements shall also apply to individuals serving in the following leadership capacities:</p> <ul style="list-style-type: none"> • Administrative Assistant: fully certified and serving in a full-time, full-year administrative capacity. • Acting Principal or Assistant Principal: fully certified and serving in a full-time, full-year administrative capacity. <p>A newly appointed principal who successfully completed the Assistant Principal Induction Program in 1999-2000 shall complete only Year One requirements of the Principal Induction Program.</p> <p>A newly appointed principal who successfully completed the Assistant Principal Induction Program in 2000-2001 shall complete only Year Two requirements of the Principal Induction Program.</p> <p>A newly appointed principal who did not complete the Assistant Principal Induction Program or completed the program in 1998 or before shall complete the two-year requirements of the Principal Induction Program.</p> <p>Upon successful completion of two years of the Induction Program requirements, an individual may request to have provisional status removed from their certificate.</p>

* * *

Interested persons may submit comments until 4:30 p.m., April 11, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
 Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES
 RULE TITLE: Bulletin 741C Louisiana Handbook
 for School Administrators C Louisiana
 Principal/Assistant Principal Induction Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
 There are no estimated implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 There are no estimated costs and/or economic benefits that will directly affect persons or non-governmental groups.
 Administrative Assistants, Acting Principals, Acting Assistant Principals: persons fully certified in Principalship or Educational Leadership and serving in a full-time, full-year administrative capacity are now eligible to participate in the program. The program is of no cost to the participants, but

requires full participation in face-to-face as well as online activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Marlyn Langley
 Deputy Superintendent
 Management and Finance
 0302#048

H. Gordon Monk
 Staff Director
 Legislative Fiscal Office

**NOTICE OF INTENT
 Board of Elementary and Secondary Education**

Bulletin 1706C Regulations for Implementation of the Children with Exceptionalities Act Students with Disabilities (LAC 28:XLIII.Chapters 1-9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement amendments to Bulletin 1706, *Regulations for Implementation of the Children with Exceptionalities Act*, R.S. 17:1941 et seq., "Subpart AC Regulations for Students with Disabilities" (LAC 28:XLIII).

The proposed revisions to Bulletin 1706, *The Regulations for Implementation of the Children with Exceptionalities Act*, R.S. 17:1941 et seq., "Subpart AC Regulations for Students with Disabilities," formally changes the state regulations to be in compliance with the 1999 revisions to the federal

regulations of IDEAC Part B and in the state statute at R.S.17:1941 et seq. They make the State Advisory Panel consistent with state and federal statutes; they change the language to be consistent with federal regulations regarding

Due Process and state statute in converting to a one-tier Due Process Hearing system. They clarify timelines regarding re-evaluations for toddlers turning three; they clarify what information must be reviewed at IEP meetings and what clarifies as nonacademic activities, they clarify serving students in their least restrictive environment; they clarify responsibilities when placing students for services in private schools; they clarify rights of parents and students; they provide guidance regarding fiscal responsibilities of noneducational agencies; they provide regulations for interagency coordination with other state agencies; they provide or clarify definitions; they remove all references to handbooks.

**Title 28
EDUCATION**

**Part XLIII. Bulletin 1706C Regulations for
Implementation of the Children with Exceptionalities
Act (R.S. 17:1941 et seq.)**

**Subpart A. Regulations for Students with Disabilities
Chapter 1. Responsibilities of the State Board of
Elementary and Secondary Education**

§105. Approval of IDEAC Part B Application

A. The State Board will review and approve the State policies and procedures required by the IDEA application before their submission to the U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000), amended LR 29:

§130. State Advisory Panel (Panel)

A. - C.2. ...

3. The Panel shall advise the State Board and the Department in developing evaluations and reporting on data to the Secretary of Education.

4. - 7. ...

8. Repealed.

D. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:640 (April 2000), amended LR 29:

§131-199. Reserved.

**Chapter 2. Responsibilities of the Superintendent of
Public Elementary and Secondary
Education and of the Department of
Education**

§201. General Responsibilities and Authorities

A. The State Superintendent of Public Elementary and Secondary Education (the State Superintendent) and the State Department of Education (the Department) shall administer those programs and policies necessary to implement L.R.S.17:1941 et seq.

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000), amended LR 29:

§240. Impartial Hearing Officers

A. The Department and each LEA shall maintain a list of qualified and impartial hearing officers. The list shall include a statement of the qualifications of each of those persons.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:641 (April 2000), amended LR 29:

§253-259. Reserved.

§260. Full Educational Opportunity Goal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:642 (April 2000), repealed LR 29:

**Chapter 3. Responsibilities and Activities of the
Division of Special Populations**

**§302. Monitoring, Complaint Management and
Investigation**

A. ...

B. The Division shall monitor in accordance with established procedures all public and participating private schools and other education agencies for compliance with these and other applicable federal regulations, state statutes and standards.

C. - E. 1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:643 (April 2000), amended LR29:

§369. Personnel Standards

A. Personnel of State and local public and private educational agencies, including local agency providers, who deliver special education services (including instructional, appraisal, related, administrative, and support services) to children and youth with disabilities (3 through 21) shall meet appropriate entry level requirements that are based on the highest requirements in Louisiana applicable to the profession or discipline in which the person is providing special education or related services.

A.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:644 (April 2000), amended LR 29:

**Chapter 4. Responsibilities of Local Educational
Agencies**

§401. Responsibilities of LEAs

A. Each LEA shall identify and locate each student suspected of having a disability (regardless of the severity of the disability), birth through 21 years of age, residing within its jurisdiction.

B. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:647 (April 2000), amended LR 29:

§405. Special Education and Early Intervention Services for Infants and Toddlers with Disabilities Less Than 3 Years of Age

A. LEAs have the option of providing special education and early intervention services to infants and toddlers with disabilities who are from birth to 3 years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000), amended LR 29:

§410. Child Search (Child Find) Activities for Infants and Toddlers with DisabilitiesC Birth through 2 Years of Age

A. If, in the process of implementing these Regulations, any LEA locates a child within these ages ranges who is suspected of having a disability shall be referred to the Lead Agency's designated point of entry.

B. For children 2.6 years of age or older, follow the procedures in §415 below.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§411. Child Search (Child Find) Activities for Students 3 through 21 Years of Age

A. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000), amended LR 29:

§413. Students in an Educational Program Operated by the LEA

A. An LEA shall identify a student as suspected of having a disability by the School Building Level Committee (SBLC). This committee shall coordinate and document the results, as appropriate, of educational screening, sensory screening, health screening, speech and language screening, or motor screening, and the results of the intervention efforts.

B. - C. ...

D. Within 10 business days after receipt of the referral by the pupil appraisal office for an individual evaluation, the Evaluation Coordinator shall complete required initial activities.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:648 (April 2000), amended LR 29:

§415. Students Out of School and/or Former Special Education Students Residing in the State

A. Students out of school, including students ages 3 through 5 years who are suspected of having a disability and former special education students who have left a public school without completing their public education by obtaining a State diploma, shall be referred to the LEA's Child Search Coordinator, who shall locate and offer enrollment in the appropriate public school program and

refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP based on their individual need following the enrollment process in §416 below. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five school days.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000), amended LR 29:

§416. Students with a Documented Severe or Low-Incidence Impairment; Students Who May Be Transferring from Out of State; or Infants and Toddlers with Disabilities

A. Students who have a documented severe or low-incidence impairment documented by a qualified professional shall be initially enrolled in a special education program concurrent with the conduct of the evaluation. This enrollment process, from the initial entry into the LEA to placement, shall occur within 10 school days and shall include the steps, as listed below.

1. - 5. ...

B. Students who have been receiving special education services in another state may be initially enrolled in a special education program, on an interim IEP, concurrent with the conduct of the evaluation. The enrollment process shall be the same as in §416.A.

1. ...

C. For toddlers transitioning from Part C programs to preschool special education programs, the LEA shall follow federally mandated time lines and procedures to ensure a smooth and effective transition between programs. The LEA is required to participate in transition planning conferences at least 90 days, and at the discretion of the parties, up to 6 months prior to the age the student is eligible for preschool special education services. The purpose of this conference is to discuss services the student may receive after his or her third birthday. The LEA shall have the multidisciplinary evaluation completed and the IEP developed for all eligible students for implementation by the student's third birthday to ensure the continuity of services.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000), amended LR 29:

§417. Students with Disabilities Transferring from One LEA to Another LEA within Louisiana

A. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000), amended LR 29:

§418. Evaluation and Re-Evaluation

A. A full and individual evaluation shall be conducted for each student being considered for special education and related services under these Regulations to determine whether the student is a "student with a disability" as defined in these Regulations and to determine the educational needs of the student. The evaluation shall be conducted as mandated; and, if it is determined the student is a "student

with a disability," the results of the evaluation shall be used by the student's IEP team.

B. A re-evaluation of each student with a disability shall be conducted as mandated; and the results of any re-evaluations shall be addressed by the student's IEP team in reviewing and, as appropriate, revising the student's IEP.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:649 (April 2000), amended LR 29:

§431. Required Individual Evaluation

A. - B.1.

2. it is requested in writing by the student's parent(s) (a request for a reevaluation may be presented orally if the parent is illiterate in English or has a disability that prevents the production of a written statement);

B.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000), amended LR 29:

§433. Evaluation Coordination

A. ...

B. The evaluation coordinator shall ensure that the evaluation is conducted including the following: initial responsibilities following receipt of referral, selection of participating disciplines, procedural responsibilities, and mandated time lines.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000), amended LR 29:

§434. Evaluation Process and Procedures

A. Individual evaluations shall be conducted according to the "Procedures for Evaluation" for each disability.

B. The determination of a disability shall be based upon the established "Criteria for Eligibility" before the initial delivery of special education and related services.

C. - C.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:650 (April 2000), amended LR 29:

§436. Time Lines

A. - B. ...

C. Extensions of evaluation time lines shall be justified by established criteria.

D. The required triennial re-evaluation shall be completed on or before the third year anniversary date.

E. The required evaluation for toddlers transitioning into preschool special education services shall be completed and the IEP developed, if eligible, by the student's third birthday.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:

§437. Determination of Needed Evaluation Data

A. In conducting re-evaluations under these Regulations and as part of an initial evaluation, if appropriate, the

evaluation team shall comply with prescribed procedures as described below.

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:651 (April 2000), amended LR 29:

§438. Evaluating Students with Specific Learning Disabilities

A. The procedures for evaluating a student suspected of having a specific learning disability including team members, criteria for eligibility, observation requirements, and the written report shall be conducted according to mandated procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:652 (April 2000), amended LR 29:

§440. IEP/Placement Responsibilities

A. ...

1. Each LEA shall be responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability in accordance with all the requirements of this subpart.

A.2. - C.2. ...

3. Each LEA shall ensure the team revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general curriculum, if appropriate, as well as concerns in any areas noted in §444.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:652 (April 2000), amended LR 29:

§441 IEP Team Participants

A. - A.7. ...

a. The LEA shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of the student's transition service needs under §444.M.1, the needed transition services for the student under §444.M2., or both.

7.b. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:652 (April 2000), amended LR 29:

§444. IEP Content and Format

A. - M.2. ...

3. If a participating agency, other than the LEA, fails to provide the transition services described in the IEP, the LEA shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:654 (April 2000), amended LR 29:

§446. Least Restrictive Environment

A. - A.8. ...

9. Nonacademic and extracurricular services and activities shall be provided in the manner necessary to afford students with disabilities an equal opportunity for participation in those services and activities including meals and recess periods and participates with nondisabled children in these services and activities to the maximum extent appropriate to the needs of that child; and may include counseling services, recreational activities, athletics, transportation, health services, special interest groups or clubs sponsored by the LEA, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the LEA and assistance in making outside employment available.

A.10. - C. ...

1. early childhood setting;
2. early childhood special education setting;
3. home;
4. part-time early childhood/part-time early childhood special education setting;
5. residential facility;
6. separate school;
7. itinerant service outside the home; or
8. reverse mainstream setting

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:655 (April 2000), amended LR 29:

§447. Extended School Year Services

A. ...

B. LEAs shall provide educational and related services beyond the normal school year to students with disabilities when these students are determined to be in need of or eligible for such services for the provision of a FAPE. Student eligibility, which may not limit ESYP services to particular categories of disabilities, shall be determined in accordance with extended school year program eligibility criteria requirements.

C. The student's extended school year program is to be designed according to. The ESY IEP team, in determining the duration, amount and type of extended school year services, shall not be bound or limited by any predetermined program or length. The extended school year services shall be determined by the IEP team on an individual basis for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:656 (April 2000), amended LR 29:

§449. IEP Declassification Placement

A. When a re-evaluation indicates that a student with a disability currently enrolled in special education no longer meets all the criteria for classification as a student with a disability, the LEA shall either

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:657 (April 2000), amended LR 29:

§451. Requirements for Placed or Referred Students with Disabilities

A. - F. ...

G. Notwithstanding any other provision of these regulations, when it is necessary to provide special education and related services in programs other than public schools, these placements must not occur until it has been determined that the student cannot be appropriately educated by another governmental agency of the State. After determination has been made that neither the public schools nor another governmental agency of the State can adequately provide special education and related services, then private programs within the State (the third alternative) must be considered. If these programs are still inadequate to meet the educational needs of the student, then out-of-state private programs may be approved.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:657 (April 2000), amended LR 29:

§460. Students with Disabilities in Private Schools Placed or Referred by LEAs

A. ...

B. Before an LEA places a child with a disability in, or refers a child to, a private school or facility, the LEA shall initiate and conduct a meeting to develop an IEP for the child in accordance with §§440-460 of these Regulations.

C. The LEA shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

D. After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the LEA.

E. If the private school or facility initiates and conducts these meetings the LEA shall ensure that the parents and an agency representative:

1. are involved in any decision about the child's IEP; and
2. agree to any proposed changes in the IEP before those changes are implemented.

F. Even if a private school or facility implemented a child's IEP, responsibility for compliance with this Part remains with the LEA and the SEA.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:658 (April 2000), amended LR 29:

§462. Students with Disabilities Enrolled by Their Parents in Private Schools

A. - D.2. ...

a. Each LEA shall consult with representatives of private school students in deciding how to conduct the annual child count of the number of private school students with disabilities and shall ensure that the count is conducted on December 1 of each year.

D.2.b. - L.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:658 (April 2000), amended LR 29:

§491. Child Count

A. ...

B. Each LEA/State agency shall determine the eligibility of each student for inclusion in the December 1 Child Count, which will generate funds under IDEA-B. It is the responsibility of the LEA/State agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program (IEP).

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:662 (April 2000), amended LR 29:

§494. Obligation of Noneducational Public Agencies

A. - B. ...

C. If a public agency other than the educational agency fails to provide or pay for the special education and related services in A. above, the LEA or Department shall provide or pay for these services to the student in a timely manner. The LEA or Department may then claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services and that agency shall reimburse the LEA or Department in accordance with the terms of the interagency agreement.

D. Nothing in this part relieves the participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for transition services that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:663 (April 2000), amended LR.

Chapter 5. Procedural Safeguards

§503. Independent Educational Evaluation

A. - C.3. ...

4. If a parent requests an IEE at public expense, the LEA must ensure that the evaluation is provided at public expense, unless the LEA demonstrates in a hearing under §507 of these regulations that the evaluations obtained by the parent did not meet agency criteria.

D. An IEE obtained at public expense shall meet the same criteria established by these Regulations. The LEA may not impose conditions on obtaining an IEE, other than the mandated criteria

E. If the parents obtain an IEE at private expense and it meets the mandated criteria, the results of the evaluation shall be considered by the LEA in any decision made with respect to the provision of a free appropriate public education to the student; and they may be presented as evidence at a hearing as described in §507 of these Regulations regarding the student.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:664 (April 2000), amended LR 29:

§504. Prior Notice and Procedural Safeguard Notice

A. - B. ...

1. a description of the action proposed or refused by the LEA, an explanation of why the LEA proposes or refuses to take the action, and a description of any other options the LEA considered and reasons why those options were rejected;

B.2. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:664 (April 2000), amended LR 29:

§505. Parental Consent

A. ...

B. Consent for initial evaluations may not be construed as consent for initial placement described in A. above.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:665 (April 2000), amended LR 29:

§506. Complaint Management and Mediation

A. Complaint procedures are established to resolve disputes regarding educational decisions between an LEA and a parent.

A.1. - B. ...

1. Mediation, which is voluntary on the part of both parties, shall be conducted by a qualified and impartial mediator trained in effective mediation techniques and assigned randomly by the Department.

2. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:665 (April 2000), amended LR 29:

§507. Impartial Due Process Hearing

A. A parent or LEA may initiate a hearing on any of the matters described in §504 A.1 and 2. A parent of a child with a disability or the attorney representing the child, initiates a hearing by sending written notice to the Department, which remains confidential. The LEA initiates a hearing by sending written notice to the parent and to the Department. When a hearing has been initiated, the Department shall inform the parents of the availability of mediation.

1. The written notice to the Department for a due process hearing shall include the student's name and address, the name of the school the student is attending, a description of the nature of the problem, of the child relating to the proposed or refused initiation or change, including facts relating to the problem, and a proposed resolution of the problem to the extent known and available to the person requesting the hearing. The Department must provide a model form to a parent to assist in filing a request for a due process hearing.

2. ...

3. The Department may not deny or delay a parent's right to a due process hearing for failure to provide the required notice described above.

B. ...

1. The hearing shall be conducted at a time and place reasonably convenient to the parent and the student involved.

2. Any party shall have the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of students with disabilities.

B.3. - C.2. ...

3. be informed, upon request, of any free or low-cost legal and other relevant services if the parent requests the information or when either the parent or the LEA initiates a due process hearing; and

C.4. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:666 (April 2000), amended LR 29:

§508. Hearing Officer Appointment and Hearing Procedures

A. - A.1.b. ...

c. No attorney who has represented an LEA or a parent in education litigation within three years may act as a hearing officer.

2. The Department and each LEA shall maintain the list of qualified hearing officers. The list shall include a statement of the qualifications of each of the hearing officers. The Department shall ensure that these hearing officers have successfully completed an in-service training program approved by the Department. Additional in-service training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

3. Appointments shall be for a period of one year.

B. ...

1. The hearing officer shall be assigned within five business days by the Department, on a rotational basis from the Department's list of certified hearing officers.

2. ...

3. If the parent or LEA has reasonable doubt regarding the impartiality of a hearing officer, written information shall be submitted to the Department within three business days of receipt of the notice of the assigned hearing officer.

4. The Department shall review any written challenge and provide a written decision and notice to the parent and LEA within three business days after receipt of the written challenge.

B.5. - C. 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:667 (April 2000), amended LR 29:

§509. Appeal of the Hearing Decision

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:667 (April 2000), repealed LR 29:

§510. The State Level Review Panel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), repealed LR 29:

§511. Appeal to the State Level Review Panel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), repealed LR 29:

§512. Appeal to State or Federal Court

A. Any party aggrieved by the decision and the findings of the hearing officer has the right to bring a civil action in State or Federal court. The civil action shall be filed in State or federal court of competent jurisdiction without regard to the amount of controversy within 90 days after notification of the decision or finding of the hearing officer is received by the aggrieved person, agency, or party.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), amended LR 29:

§514. Student Status during Proceedings

A. Except as provided in §519.K of the Regulations during the pendency of any administrative or judicial proceeding regarding due process, the student involved shall remain in the current educational placement unless the parent and the LEA agrees otherwise.

B. ...

C. If the decision of a hearing officer agrees with the parent that a change of placement is appropriate, that placement shall be treated as an agreement between the State or the LEA and the parents for the purposes of A above.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), amended LR 29:

§515. Costs

A. LEAs shall be responsible for paying administrative costs or reasonable expenses related to participation of LEA personnel in a hearing. The cost and expenses of the hearing officer and stenographic services shall be paid by the Department in accordance with its policies and procedures.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:668 (April 2000), amended LR 29:

§517. Confidentiality of Information

A. - B.5. ...

C. In ensuring access rights, each LEA shall permit parents to inspect and review any educational records relating to their child, which are collected, maintained or used by the LEA under these Regulations. The LEA shall comply with the request without unnecessary delay and before any meeting regarding an individualized education program or any hearing pursuant to §507 and §519.D-M of these regulations; in no case shall the time exceed 45 days after the request has been made. The LEA shall not destroy any education records if there is an outstanding request to inspect and review the records.

C.1. - M.1. ...

N. All rights of privacy accorded to parents shall be afforded to students with disabilities, taking into consideration the age of the child and type of severity of the disability.

1. ...

2. Rights accorded to parents under Part B of the IDEA and these Regulations are transferred to a student who reaches the age of majority, consistent with §518 of these Regulations.

O. State-mandated Compliance Monitoring includes the policies, procedures and sanctions the State shall use to ensure that the requirements of IDEA CPart B and these Regulations are met.

P. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:669 (April 2000), amended LR 29:

§518. Transfer of Parental Rights at the Age of Majority

A. - A.3. ...

B. When a student with a disability reaches the age of majority and has not been interdicted or the subject of a tutorship proceeding, the student's parent may allege to the LEA that the student lacks the ability to provide informed consent with respect to his or her educational program. In the event that the parent makes such an allegation, the student has the right to dispute the parent's allegation, either orally or in writing, or by any other method of communication.

1. Any protest or objection to the parent's allegation shall result in the student's educational rights being transferred fully to the student at the age of majority, unconditionally. If the student makes no such dispute or objection, the parent shall retain the student's educational rights.

2. The student's position is final and unappealable; however, at any time the student may revoke his protest or objection to his parents' retention of rights. Upon such revocation, the students' rights immediately vest with the student.

3. LEAs are required to document in the child's IEP that the parents and the student have been informed of the rights herein and that they have accepted or declined these rights. If the student and/or parent is unable to sign the appropriate section of the IEP reflecting this information, the IEP team may complete that portion of the IEP on behalf of the student and/or parent, reflecting each party's position and acknowledging that the student and/or parent is unable to sign.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:670 (April 2000), amended LR 29:

§519. Discipline Procedures for Students with Disabilities

A. - B.2. ...

a. the student carries or possesses a weapon at school or at a school function under the jurisdiction of the State or an LEA; or

b. the student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of the State or an LEA.

C. ...

Weapon has the meaning given the term *dangerous weapon* under Paragraph (2) of the first Subsection (g) of Sec 930 of Title 18, United States Code.

D. - D.1.c. ...

d. determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the student's special education teacher meets all IAES requirements as set forth in Subsection G below.

E. - E.1.a. ...

b. for behavior that is not a manifestation of the student's disability consistent with §519.H of these Regulations; the student's IEP team shall determine the extent of which services are necessary to enable the student to progress appropriately in the general curriculum and to advance appropriately toward achieving the goals set out in the student's IEP.

E.2. - F.1. ...

2. If the student already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation and modify the plan and its implementation as necessary, to address the behavior.

3. - 4.a. ...

G The interim alternative educational setting referred to in Paragraph B of this section shall be determined by the IEP team. Any interim alternative educational setting in which a student is placed under Paragraph B.2 and Subsection D of this Section shall:

1. ...

2. include services and modifications designed to address the behavior described in Paragraph B.2 and Subsection D and to prevent the behavior from recurring.

H. - H.4. ...

a. consider, in terms of the behavior subject to disciplinary action, all relevant information, the evaluation and diagnostic results, including the results or other relevant information supplied by the parent of the student; observation of the student; and the student's IEP and placement, and

4.b. - 5. ...

6. If the IEP team and other qualified personnel determine that the behavior is a manifestation of the student's disability, the disciplinary removal cannot occur, unless the removal is in accordance with §519.B.2.(a) and (b) and §519 D of these Regulations.

H.7. - I.3. ...

J. If the student's parent disagrees with a determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement and discipline, the parent may request a hearing.

1. The Department, consistent with §507 and §508.B of these Regulations, shall arrange for an expedited hearing in any case described in the above paragraph if a hearing is requested by a parent.

a. In reviewing a decision with respect to the manifestation determination, the hearing officer shall

determine whether the LEA has demonstrated that the student's behavior was not a manifestation of the student's disability consistent with the requirements of §519.H.5.

b. In reviewing a decision under §519.B.2 of these Regulations to place a student in an interim alternative educational setting, the hearing officer shall apply the standards in §519.D of these Regulations.

K. ...

1. If the parents request a hearing regarding a disciplinary action described in §519.B.2 or §519.D.1.a-d to challenge the interim alternative educational setting or the manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until expiration of the time period provided for in §519.B.2 or §519.D.1.a-d, whichever occurs first, unless the parent and the State or LEA agree otherwise.

2. If a student is placed in an interim alternative educational setting pursuant to §519B.2 and §519.D.1.a-d and school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the student shall remain in the current placement (student's placement prior to the interim alternative educational setting), except as provided in K.3 below.

3. ...

a. In determining whether the student may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards in §519.D.1.a-d.

K.3.b. - L.4. ...

5. If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA shall provide special education and related services in accordance with the provisions of these Regulations including the requirements of §519.B-N and R.S. 17:1943.6.

M. - M.5. ...

6. The decisions on expedited due process hearings are appealable consistent with the procedures established at §512 of these Regulations.

N. - N.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:670 (April 2000), amended LR 29:

Chapter 6. Establishment and Operation of Special School District

§602. Program Approval

A. Each educational program operated by SSD shall meet the Standards for school approval.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:674 (April 2000), amended LR 29:

§690. Instructions for Child Count

A. ...

B. Each LEA/State agency shall determine the eligibility of each student for inclusion in the December 1 Child Count,

which will generate funds under IDEA-B. It is the responsibility of the LEA/State agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education (IEP).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:675 (April 2000), amended LR 29:

Chapter 7. Responsibilities of State Board Special Schools

§711. Instructions for Child Count

A. ...

B. Each LEA/State agency shall determine the eligibility of each student for inclusion in the December 1 Child Count, which will generate funds under IDEA-B. It is the responsibility of the LEA/State agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program (IEP).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000), amended LR 29:

§716. Louisiana Schools for the Deaf and the Visually Impaired Alternative Placement

A. ...

B. Upon receipt from a parent (as defined in Chapter 9 of these Regulations) of an application for admission of his or her child, LSD or LSVI shall require, at a minimum, an individual evaluation for classification as having a hearing impairment (i.e., deaf, hard of hearing) or a visual impairment (i.e., blindness, partial sight) as a part of the application. LSD or LSVI shall notify the LEA of the parent/student domicile that the application has been made, in order to fulfill the provisions established in §709 of these Regulations.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:677 (April 2000), amended LR 29:

Chapter 8. Interagency Agreements

§830. Types of Interagency Agreements

A. The Department and SSD shall have agreements or promulgate regulations for interagency coordination with the Department of Health and Hospitals (DHH), the Department of Social Services (DSS), and the Department of Public Safety and Corrections (DPS&C), and/or other state agencies and their sub-offices, where appropriate. LEAs shall have those agreements whenever necessary for the provisions of a free appropriate public education. The State School for the Deaf, State School for the Visually Impaired and the State Special Education Center, now under the auspices of SSD, shall have interagency agreements with the LEA in whose geographic area they are located; with each LEA that places a student in the day programs of that facility; with the regional state agencies; and with habilitation agencies with which they share students.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:678 (April 2000), amended LR 29:

§861. DHH and the Department's Responsibilities under IDEA and the Louisiana Education of Children with Exceptionalities Act

A. This regulation and the following regulations at §§861-870 control the legal relationship between the Louisiana Department of Health and Hospitals (DHH) and the Louisiana Department of Education (the Department), for the interagency coordination of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq. and the Louisiana Education of Children with Exceptionalities Act, R.S. 17:1941 et seq., and encompasses all offices, division, bureaus, units and programs at the State, regional and local levels with each department.

B. These regulations are promulgated to comply with the obligations imposed upon the State of Louisiana and its agencies at 20 U.S.C. §1412 and 34 CFR §300.142.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§862. Definitions

A. For the purposes of this Chapter, the following definitions apply.

Educational Services Call other services, including but not limited to academic services, extracurricular activities, transportation, related services for which DHH is not legally responsible, and any other service included on a student's IEP but not provided by DHH, through Medicaid or any other program operated by DHH, under any existing State or federal law.

Eligibility Criteria for DHH Health and Medical Services the criteria for individuals receiving a specific health or medical service provided by DHH.

Family the child's parents or legal guardians as well as surrogate parents and persons acting as a parent as defined by Bulletin 1706, Regulations for the Implementation of the Children with Exceptionalities Act.

IEP Individualized Education Program, as defined in §904 herein.

LEA a local educational agency, as defined in §904 herein.

Related Services in addition to the definition of these terms in IDEA and Bulletin 1706, in the context of these regulations, the term means those services which DHH, through Medicaid or any other program operated by DHH, is required by any existing State or federal law to provide to a qualified recipient in the State of Louisiana. *Related services* includes but is not limited to supportive services as are required to assist a student with a disability to benefit from special education, and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, orientation and mobility services, medical services for diagnostic or evaluation purposes, and transition services.

Services any special education and/or related services as defined in IDEA and Bulletin 1706, Regulations for Implementation of the Children with Exceptionalities Act.

Student any individual between the ages of 3 and 22 years and is enrolled in a Louisiana Local Education Agency ("LEA") or is the responsibility of the Department and/or the LEAs.

Student with a Disability as defined in §904 herein.

Transition Services Transition services, as defined in §904 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§863. Responsibility for Services

A. In order to ensure that all services described in §864 of these regulations that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute, the following requirements are imposed on the Department and DHH.

1. Agency Financial Responsibility. All relevant federal and state mandates apply. The Department and DHH, as obligated under federal or state law, must use allocated federal, state and local funds to provide, pay or otherwise arrange for services on the IEP that are necessary to ensure each eligible student receives a free appropriate public education ("FAPE") as written on the IEP. The financial responsibility for these services shall be governed by all pertinent federal and state laws, including but not limited to 20 U.S.C. §1400 et seq., 34 CFR Parts 300, LSA-R.S. 17:1941 et seq., Louisiana Department of Education *Bulletin 1706*, 42 U.S.C. §1396 and 42 CFR Part 430.

a. If DHH is otherwise obligated under federal or state law, or assigned responsibility under DHH policy or pursuant to 34 CFR §300.142, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in 34 CFR §300.5 relating to assistive technology devices, 34 CFR §300.24 relating to related services, 34 CFR §300.28 relating to supplementary aids and services, and 34 CFR §300.29 relating to transition services) that are necessary for ensuring FAPE to students with disabilities within the State, DHH shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

b. DHH may not disqualify an eligible service for Medicaid reimbursement because it is on an IEP or because that service is provided in a school context or any other setting that is a most integrated setting or least restrictive environment in order to provide a free appropriate public education. DHH is required to provide all eligible services to the same extent the individual would receive these services under federal and state law and regulation without eligibility for IDEA.

c. The financial responsibility of DHH must precede the financial responsibility of the LEA or the State agency responsible for developing the student's IEP.

2. Conditions and Terms of Reimbursement. DHH will fund or provide services that are included on an IEP to the extent that such services are services that are funded or provided to individuals eligible under any federal or state program provided by DHH. If any program under the auspices of DHH fails to provide or pay for these special education and related services, the LEA and/or the Department is responsible for providing or paying for these services. The Department or the LEA will then claim

reimbursement from DHH, having failed to provide or pay for these services. DHH is then required to reimburse the LEA or the Department for the services that DHH is otherwise obligated to provide. DHH is required to fund or provide services that are included on an IEP to the extent that such services are services for which the individual is eligible under any federal or state program administered by DHH.

3. **Interagency Disputes.** Disputes relating to the provision of services pursuant to 20 U.S.C. §1400 et seq., and the Louisiana Education of Children with Exceptionalities Act, R.S. 17:1941 et seq., must be addressed in the following manner.

a. If a family disputes the actions of an LEA, that family may either file a complaint with the Department or file for a due process hearing, both as set out in Louisiana Bulletin 1706, Chapter 5, Procedural Safeguards. If a family disputes the actions of DHH and that family or student is a client of or eligible for DHH services, that dispute may be addressed through the DHH appeals process, as authorized in R.S. 46:107 or any other relevant State or federal statute or regulation.

b. If an LEA disputes the actions of the Department, that LEA may file suit against the Department only in the United States District Court for the Middle District of Louisiana or the Nineteenth Judicial District Court for the Parish of East Baton Rouge.

c. If an LEA disputes the actions of DHH, as a Medicaid provider, that LEA may appeal through the DHH appeal process, as authorized in R.S. 46:107 or any other relevant State or federal statute or regulation.

d. An interagency dispute between DHH and the Department, which involves either program or financial responsibility, will be referred to the Superintendent of Education and the Secretary of the Department of Health and Hospitals for mediation. If the dispute cannot be resolved in mediation, it will be referred to the Office of the Governor for resolution. If a dispute continues beyond these interventions, either DHH or the Department may seek resolution from a court of competent authority.

e. During the pendency of any dispute, a student's LEA bears full responsibility for program and/or financial obligations, to ensure that the student's IEP is implemented fully and that the student is receiving FAPE. If the LEA is unable or unwilling to provide FAPE, the Department is responsible for those program and/or financial obligations.

4. **Coordination of Services Procedures.** The Department and DHH shall coordinate services to students with disabilities by complying with procedures that are specific to each agency, including, but not limited to, the following.

a. The Department bears the following responsibilities:

i. maintain the Child Search system under Part B of IDEA, specifically, the identification, location and evaluation of students from 3 through 21 years of age who are suspected of having a disability;

ii. provide DHH with a listing of its primary contacts and service description for the Child Search Program on a parish basis for DHH to make available to its regional and parish offices;

iii. ensure that each eligible student/student will receive a timely, appropriate multidisciplinary evaluation. In order to reduce the duplication of effort, services and paperwork, the LEAs will implement a policy to ensure evaluations conducted by programs in DHH are utilized in the multidisciplinary evaluation of students suspected of being disabled and in the re-evaluation of students;

iv. ensure that each eligible student with a disability receives a free appropriate public education ("FAPE") in accordance with an IEP. FAPE includes special education and related services;

v. ensure that each eligible student has an IEP developed and implemented in accordance with IDEA;

vi. monitor the provision of services on IEPs through assurances with LEAs; and

vii. monitor the implementation of the IEP and assure that resources necessary for the implementation of services on the IEP will be made available through federal or State funds.

b. DHH bears the following responsibilities:

i. provide access to medical services offered by DHH through application for such services at DHH office locations in all regions of the State where the students currently reside. The student must meet the eligibility criteria for the medical services for which the student is applying. Establishing eligibility and need for services is the responsibility of DHH;

ii. DHH shall not reduce the medical services, which it would be required to provide to a student with a disability solely because those services are included on IEP;

iii. refer students to the LEA upon suspicion of a disability. DHH personnel will share available information on students receiving joint services from the Department and DHH with the proper written consent;

iv. provide information at the consent and request of a parent; and

v. ensure that a student with a disability can access Medicaid services for which the student is eligible. DHH policy and procedures shall not preclude an LEA from enrolling as a provider in the Medicaid program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§864. Obligations of DHH

A. If DHH is otherwise obligated under federal or State law, or assigned responsibility under State policy or pursuant to §§861-870 herein, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in 34 CFR §300.5 relating to assistive technology devices, §300.6 relating to assistive technology services, §300.24 relating to related services, §300.28 relating to supplementary aids and services, and §300.29 relating to transition services) that are necessary for ensuring FAPE to students with disabilities within the State, DHH shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

B. DHH may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.

C. If DHH fails to provide or pay for the special education and related services described in Paragraph A hereinabove, the LEA (or State agency responsible for developing the student's IEP) shall provide or pay for these services to the student in a timely manner. The LEA or State agency may then claim reimbursement for the services from DHH, having failed to provide or pay for these services, and DHH shall reimburse the LEA or State agency in accordance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§865. Students with Disabilities Who Are Covered by Public Insurance

A. An LEA may use the Medicaid or other public insurance benefits programs in which a student participates to provide or pay for services required under this agreement, as permitted under the public insurance program, except as follows.

1. With regard to services required to provide FAPE to an eligible student under this part, the LEA:

a. may not require parents to sign up for or enroll in public insurance programs in order for their student to receive FAPE under Part B of the IDEA;

b. may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but pursuant to §867.B of these regulations, may pay the cost that the parent otherwise would be required to pay; and

c. may not use a student's benefits under a public insurance program if that use would:

i. decrease available lifetime coverage or any other insured benefit;

ii. result in the family paying for services that would otherwise be covered by the public insurance program and that are required for the student outside of the time the student is in school;

iii. increase premiums or lead to the discontinuation of insurance; or

iv. risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§866. Students with Disabilities Who Are Covered by Private Insurance

A. With regard to services required to provide FAPE to an eligible student under this Chapter, an LEA may access a parent's private insurance proceeds only if the parent provides informed consent consistent with 34 CFR §300.500(b)(1).

B. Each time the LEA proposes to access the parent's private insurance proceeds, it must:

1. obtain parent consent in accordance with Subsection A this Section; and

2. inform the parents that their refusal to permit the LEA to access their private insurance does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§867. Use of Part B Funds

A. If an LEA or State agency is unable to obtain parental consent to use the parent's private insurance, or public insurance when the parent would incur a cost for a specified service required under this part, to ensure FAPE the LEA may use its Part B funds to pay for the service.

B. To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the LEA may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§868. Proceeds from Public or Private Insurance

A. Proceeds from public or private insurance will not be treated as program income for purposes of 34 CFR §80.25.

B. If an LEA spends reimbursements from federal funds (e.g., Medicaid) for services under this part, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in 34 CFR §§300.154 and 300.231.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§869. Limitations of these Requirements

A. No provision of this Chapter should be construed to alter the requirements imposed on DHH or any other agency administering a public insurance program by federal statute, regulations, or policy under Title XIX or Title XXI of the Social Security Act or any other public insurance program.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§870. General Provisions Governing §§861-870

A. Confidentiality of Information. In accordance with federal and State law, information on a student's disabilities is confidential. For the purposes of identification, location, evaluation, development and implementation of the IEP, information and records on mutually served students may be exchanged between the Department and DHH with the written, informed consent of the parent(s) of each student. The method of exchanging information may be electronic or written. When a specific student or family is identified, the exchange must be written with proper consent obtained.

B. Ancillary Agreements. Regional and/or local agreements may be developed and implemented between the respective programs within the Department and DHH for the purposes of determining and identifying interagency coordination to promote the coordination of services and the timely and appropriate delivery of services to each eligible student and family. The services may be provided either directly, through a contract or other arrangement. These agreements are considered binding for the programs under the auspices of the Department and DHH only after written approval of such regional or local agreements by the

Secretary of DHH and the Division Director of Special Populations in the Department, respectively.

C. Joint Coordination and Monitoring. DHH and the Department are required to develop jointly State level annual goals that are based on needs/data. DHH and the Department are required to evaluate jointly the overall effectiveness of these goals. Each department is required to designate a liaison at the state level to coordinate the activities and monitor the compliance of these regulations. Each agency is required to appoint an interagency committee to review and evaluate the effectiveness of these regulations; facilitate their implementation; and make recommendations for revisions as deemed appropriate.

D. Modifications to These Requirements. As the lead agency for implementation of the Louisiana Education of Children with Exceptionalities Act and the Individuals with Disabilities Education Act in Louisiana, the Department is the sole agency with authority to promulgate regulations pursuant to those statutes and no modification to these requirements shall be made by any other agency by regulation, policy or otherwise, without the express written consent of the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Chapter 9. Definitions

§904. Definitions

Adapted Physical Education is specially designed physical education for not only students with disabilities who may not safely or successfully engage in unrestricted participation in the vigorous activities of the regular physical education program on a full-time basis but also for students with disabilities, ages 3 through 5, who meet the mandated criteria. The delivery of adapted physical education required by an IEP shall meet the following conditions:

1. evaluation and instruction are provided by a certified adapted physical education teacher;
2. only students with disabilities whose need is documented in accordance with mandated criteria for eligibility are included in the caseload;
3. the caseload is in accordance with the pupil/teacher ratios listed in Chapter 10 of these Regulations.

Alternate Assessment is a substitute approach used in gathering information on the performance and progress of students who do not participate in typical state assessments. Under these Regulations, alternate assessments shall be used to measure the performance of a relatively small population of students with disabilities who are unable to participate in the general statewide assessment system, even with accommodations and modifications.

Certificate of Achievement is an exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below. The receipt of a Certificate of Achievement shall not limit a student's continuous eligibility for services under these Regulations unless the student has reached the age of 22.

1. The student has a disability under the mandated criteria.

2. The student has participated in the Louisiana Alternate Assessment Program (LAA).

3. ...

4. The student has met attendance requirements.

5. - 6. ...

Certificate of Achievement is a *Provisional Eligibility Criteria* is an exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below.

1. Eligible students are those:

a. who have disabilities under the mandated criteria;

1.b. - 2.b. ...

c. The student has met attendance requirements according to the *School Administrator's Handbook, Bulletin 741*.

d. - f. ...

Evaluation is a multidisciplinary evaluation of a child/student, ages 3 through 21 years, in all areas of suspected disability through a systematic process of review; examination; interpretation; and analysis of screening data, developmental status, intervention efforts, interviews, observations, and test results, as required; and other assessment information relative to the predetermined criteria.

Extended School Year (ESY) Services is the provision of special education and related services to students with disabilities beyond the normal school year of the LEA. All students (ages 3 through 21) classified as having a disability with a current evaluation and IEP are to be screened annually by the ESY screening date to determine eligibility for ESY. Services are to be provided in accordance with the student's IEP once eligibility is determined.

Generic Class is an instructional setting (self-contained or resource).

1. - 1.b. ...

2. The instruction is provided by a special education teacher with appropriate certification.

3. - 4. ...

Individualized Family Service Plan (IFSP)

1. a written plan for providing early intervention services for eligible children and their families. The determination of the most appropriate early intervention services, including any modifications in placement, service delivery, service providers or early intervention services, is accomplished through the development of the IFSP. The IFSP shall:

a. be developed jointly by the family and appropriate qualified personnel, including family service coordinators involved in the provision of early intervention services;

b. be based on the multidisciplinary evaluation and assessment of the child and family;

c. include the services necessary to enhance the development of the child and the capacity of the family to meet the special needs of their child;

d. continue until the child transitions out of early intervention, either to other appropriate service providers at age 3, or at such time that the family and multidisciplinary

professionals determine that services are no longer necessary; or the family no longer desires early intervention services;

e. identify the location of the early intervention services to be provided in natural environments, including the home and community settings, in which children without special needs would participate.

2. If there is a dispute between agencies regarding the development or the implementation of the IFSP, the Lead Agency is responsible for taking the necessary actions to resolve the dispute or assign responsibility for developing or implementing the IFSP.

Infants and Toddlers with Disabilities—children between the ages of birth and 3 years of age who have been determined eligible for early intervention services.

Occupational Therapy—as a related service, means mandated services provided by a qualified occupational therapist.

Physical Therapy—as a related service means mandated services provided by a qualified physical therapist.

Related Services—transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education. Related services include speech/language pathology and audiological services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, early identification and assessment of disabilities in students, counseling services including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parental counseling and training.

School Health Services—as a related services means services provided by a certified school nurse or other qualified person.

Specific Learning Disability—a severe and unique learning problem characterized by significant difficulties in the acquisition, organization, or expression of specific academic skills or concepts. This learning problem is typically manifested in school functioning as significantly poor performance in such areas as reading, writing, spelling, arithmetic reasoning or calculation, oral expression or comprehension, or the acquisition of basic concepts. The term includes such conditions as attention deficit disorders, perceptual disabilities or process disorders, minimal brain dysfunction, dyslexia, developmental aphasia, or sensorimotor dysfunction, when consistent with the mandated criteria. The term does not apply to students who have learning problems primarily the result of visual, hearing, or motor impairments; of mental disabilities; of an emotional disturbance; of lack of instruction in reading or mathematics; of limited English proficiency; or of economic, environmental, or cultural disadvantage.

Student with a Disability—a student evaluated in accordance with §§430-436 of these Regulations and determined as having one of the disability categories and, by reason of that disability, needing special education and related services.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:679 (April 2000), amended LR 29:

Chapter 10 State Program Rules for Special Education

§1001. Pupil/Teacher, Pupil/Speech/Language Pathologist, and Pupil Appraisal Ratios for Public Education

A. - 6. ...

7. Repealed. (Reserved for future use.)

8. - 12. ...

13. Pupil appraisal members shall be employed by LEAs at the rate listed below. LEAs may substitute one pupil appraisal for another provided that all pupil appraisal services are provided in accordance with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:687 (April 2000), amended LR 29:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., April 11, 2003, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1706C Regulations for
Implementation of the Children with
Exceptionalities ActC Children with Disabilities**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs to state or local governmental units resulting from these proposed rule changes.

There would be savings to the state and local educational units resulting from converting from a two-tier to a one-tier Due Process Hearing system. The State Level Review Panel would be eliminated which would save the state approximately \$57,000 per year in contractual services, and save the local educational units between \$2,000 and \$6,000 per case in attorney fees based on the complexity of the case.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated impact on revenue collections of state or local governmental units as a result of this measure. Federal special education revenue may increase in Fiscal Year 2003-2004; however, this monetary increase is not due to these proposed rule changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Adoption of this rule would provide benefits to younger students with disabilities by ensuring services are provided in a timely fashion. The proposed rule clarifies programmatic and fiscal responsibilities of noneducational agencies in providing and paying for services, which would free up additional dollars to pay for other educational and therapy services. Because of this clarification there could be additional dollars to provide training and technical assistance to school personnel and parents.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There are no estimated effects on competition and employment resulting from these proposed rule changes.

Marlyn Langley
Deputy Superintendent
Management and Finance
0302#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Office of Environmental Assessment**

Procedures for Public Records Requests
(LAC 33:I.2303-2309) (OS048)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.2303-2309 (Log # OS048).

The proposed rule will modify the uniform fee schedule by adding rates for color copies and reproduced audiotapes and videotapes, setting an hourly rate fee and reduced rate for generating computer reports, and noting no fees for certification of copies or viewing records. These changes

establish fees for record copy formats now available, clarifying the cost of the extended staff time required for producing reports from databases. The uniform fee schedule table will be reconstructed to display the regular and reduced fees in separate columns for clarity. The proposed rule will modify the procedure to allow receiving public record requests in electronic form so that requesters have a quick, easy method of delivering requests. The rule continues to exclude requests as e-mail attachments as protection against computer viruses. The proposed rule will extend exceptions to the standard operating procedures. There is a waiver for requiring LDEQ Form ISD-0005-01 for copies prepared for sale to the public. If records must leave the premises, they can be accompanied by someone designated by the department. This allows the Custodian of Records to appoint Records Management contract staff, who have many records management responsibilities, to go with the record to the outside source copy provider. The Custodian of Records' approval is changed from required to may be required for copies delivered by facsimile.

When rules were last promulgated, no clearly-defined records management program existed in DEQ. Now that the functioning records management system is an integral part of DEQ business, the existing regulations are not adequate and we have identified the changes needed, including the different fees required because of the distinct nature of some record copy requests. The basis and rationale for this rule are to bring the regulations up to date with the department's record management system capabilities and procedures, particularly dealing with electronic records and information, and expanding services for public records requests.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 23. Procedures for Public Record Requests

§2303. Policy

A. The department shall implement the fee schedule in LAC 33:I.2309 when providing copies of public records requested by the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., 44:1 et seq., and 30:2043 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§2305. Standard Operating Procedures

A. All requests for copies of public records, including discovery requests and subpoenas duces tecum for production of public records, shall be made using LDEQ Form ISD-0005-01. A certification on LDEQ Form ISD-0005-02 shall be submitted with the request for free or reduced rate copies. Completed forms may be submitted in person, by mail, by facsimile, or other approved method. No other request will be honored. Copies of the forms may be obtained through the department's website at

www.deq.state.la.us or from the department's custodian of records.

B. - C. ...

D. In order to ensure the preservation of department records, no records shall leave the premises, whether accompanied by agency personnel or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:

§2307. Exceptions to Standard Operating Procedures

A. The following procedures shall apply to persons requesting copies of public records under an exception to standard operating procedures.

1. Requests for exceptions to standard operating procedures shall be approved in advance by the department's custodian of records.

2. All requests for copies of public records shall be made using LDEQ Form ISD-0005-01 unless the records were prepared for sale to the public, e.g., Environmental Regulatory Code.

B. Specific Exceptions

1. Exception to LAC 33:I.2305.C. Copies of public records may be requested and delivered by facsimile. The copies may be sent upon receipt of a facsimile of the payment check or money order, pending receipt of the actual payment.

a. Custodian of records' approval and credit approval may be required prior to providing copies by facsimile.

b. If payment is not received within 10 working days, the requester's name will appear on an Accounts Receivable Past Due report maintained by the Office of Management and Finance, Financial Services Division.

c. No copies shall be provided to any requester who appears on the Accounts Receivable Past Due report until all past due amounts have been paid.

2. Exception to LAC 33:I.2305.D. Oversize and color records that must be duplicated by an outside source copy provider, due to unavailability of suitable copying equipment within the department, may leave the premises by approval of the custodian of records.

a. The document shall be accompanied by an official, employee, agent, or contractor of the agency who shall remain with the document until its return.

b. The requester shall be responsible for all costs of reproduction. The requester shall:

i. make payment or arrangements for payment with the outside source copy provider in advance of the request for the exception; and

ii. include a statement of such arrangements as part of the request.

c. The department reserves the right to approve the outside source copy provider and to refuse the release of public records to an outside source copy provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:

§2309. Uniform Fee Schedule

Item	Regular Fee	Reduced Fee
Copy	\$.25 per one-sided page	\$.05 per one-sided page
	\$.50 per two-sided page	\$.10 per two-sided page
Copy, Color	\$1.00 per one-sided page	\$.50 per one-sided page
Copy of existing electronic file	\$.25 per one-sided page paper copy	\$.05 per page paper copy
	\$.50 per two-sided page paper copy	\$.10 per page paper copy
(Disk/CD will be provided by the department)	Cost of disk/CD for electronic copy	Cost of disk/CD for electronic copy
Computer-generated report/map that requires data processing time* (Disk/CD will be provided by the department) *Cost to include personnel, supplies, etc.	\$25.00 per hour + cost of disk/CD	\$5.00 per hour + cost of disk/CD
Copies printed and produced by outside sources at the request of the department (LSU Press, DOA Printing, etc.)	As determined by the cost statement	As determined by the cost statement
Facsimile, per page **A cover sheet and an invoice shall be included in the faxed material at no charge.	\$1.00 per page**	\$1.00 per page**
Reproduced videotape	Cost of tape	Cost of tape
Reproduced audiotape	Cost of tape	Cost of tape
Postage & Handling	Actual cost	Actual cost
Viewing records, certification of record copies, or copies of Requests for Proposal (RFP)	No charge	No charge

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:430 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

A public hearing will be held on March 27, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by OS048. Such comments must be received no later than April 3, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation

Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by e-mail to lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS048.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Procedures for Public Records Requests**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No significant implementation costs or savings to state or local governmental units are expected as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on local governmental revenue. Overall, a modest decrease in state revenue is anticipated as a result of this rule change. Four copy categories have been added which allow newly specified fees to cover color copies, audiotape and videotape copies, and generating computer reports, rather than as "determined by cost." These fee changes are anticipated to be relatively revenue neutral. An expected modest decrease in state revenues is expected to result from new reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

An economic benefit to directly affected persons or nongovernmental groups is expected as a result of reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected as a result of this rule.

James H. Brent, Ph.D.
Assistant Secretary
0302#058

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of State Purchasing**

LaMAS (Louisiana Multiple Award Schedule)
State Contracts Based on GSA Prices
(LAC 34:I.2506)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 39:1581 and R.S. 39:1702.A.(2), Office of the Governor, Division of Administration, Office of State Purchasing advertises its intention to adopt additional Rules to Chapter 25 on Intergovernmental Regulations with the following Section on establishment of state contracts based on GSA prices to be known as LaMAS (Louisiana Multiple Award Schedules). This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 34
GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL
Part I. Purchasing
Subpart 1. Central Purchasing Procedures
Chapter 25. Intergovernmental Regulations
§2506. LaMAS (Louisiana Multiple Award Schedule)
State Contracts Based on GSA Prices**

A. The state Central Purchasing Agency of the Division of Administration may establish state contracts based on GSA (General Service Administration) pricing when it has been determined in writing by the director of State Purchasing that certain conditions are met, which shall become part of the procurement file.

B. Materials, supplies, or equipment shall not be purchased on a state contract based on GSA pricing at a price higher than the price of the same item listed on any available state purchasing contract.

C. Establishment of a state contract based on GSA pricing will only be considered when there is a valid business case.

D. State agencies shall not procure materials, supplies or equipment directly under a GSA contract. The State Central Purchasing Agency of the Division of Administration will:

1. be responsible for analyzing and determining the feasibility of establishing a LaMAS state contract based on GSA prices; and

2. issue procedures for establishment and utilization of this type of contract.

E. No use shall be made of a LaMAS contract without the participation of a Louisiana licensed dealer or distributor. Louisiana licensed dealers or distributors must meet the requirement of a resident business defined in R.S.

39:1591(6). Louisiana licensed dealers or distributors shall agree to:

1. Louisiana terms and conditions; and
2. provide written consent from the GSA contractor to extend current GSA pricing to the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 39:1702.A.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 29:

Interested persons may submit written comments on the proposed new Rule until 5 p.m., April 21, 2003, to Denise Lea, Director of State Purchasing, P.O. Box 94095, Baton Rouge, LA 70804-9095.

Denise Lea
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Government Contracts, Procurement and Property Control C LaMAS (Louisiana Multiple Award Schedule) State Contracts based on GSA Prices

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be savings in areas where GSA pricing is lower than prices on state brand name contracts. The amount of savings is indeterminable.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This Rule will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule may marginally increase competition in areas that would lend themselves to state brand name contracts and in Rules that require the use of a Louisiana distributor. No significant overall impact is anticipated in employment.

Denise Lea
Director
0302#062

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Worker's Compensation Insurance
(LAC 46:XLI.531)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 46:XLI.531 Worker's Compensation Insurance because the commission finds it necessary to clarify the requirements of such insurance. This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 5. Assistant Trainers and Other Employees

§531. Worker's Compensation Insurance

A. In addition to all other requirements for a trainer's license, each applicant therefor must furnish an individual certificate of insurance issued in his or her name only, of an insurance company licensed and/or authorized to do business in the state of Louisiana, showing he or she has worker's compensation insurance covering his or her employees and which names the Louisiana State Racing Commission as a certificate holder for purposes of coverage and cancellation of policy. Any exceptions to the form and content of the certificate may be considered on timely request.

B. Engaging in the profession of training horses on the grounds of any association licensed by the Racing Commission without proper worker's compensation insurance may result in a fine of not less than \$500 and/or suspension or revocation of license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148 and R.S. 4:150.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:274 (August 1978), amended by Division of Administration, Racing Commission LR 29:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or C. A. Rieger, Assistant Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule through March 10, 2003, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Worker's Compensation Insurance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units associated with this Rule, other than one-time costs directly associated with its publication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collections of local governmental units associated with this proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This action benefits horsemen by clarifying the requirements of worker's compensation insurance for employees of trainers. The cost to directly affected persons is potentially \$500 per violation as well as suspension/revocation of his/her license for such violation, translating into further expense of the party involved.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule change may result in suspension or revocation of the trainer's license as a result of engaging in the profession of training horses on the grounds of any association licensed by the Racing Commission without the proper worker's compensation insurance.

Charles A. Gardiner III Robert E. Hosse
Executive Director General Government Section Director
0302#015 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Real Estate Commission**

Transactions (LAC 46:LXVII.3905)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII.3905. The proposed amendment requires designated agents receiving written offers or counter offers to annotate the offers to indicate the time of day and date the offers were received.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 39. Presentation of Offers and Counter Offers

§3905. Transactions

A. Designated agents receiving written offers or counter offers in transactions shall annotate the offers or counter offers to indicate the time of day and date the offers or counter offers were received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 29:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the February 20, 2002 Louisiana Register.

The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested parties are invited to submit written comments on the proposed regulations through March 12, 2003 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, P. O. Box 14785, Baton Rouge, LA, 70809.

Julius C. Willie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Transactions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated affect on revenue collections. Revenue collections will still be determined by the number of applicants and the time frame within which their license, certificate, or registration is obtained and/or renewed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. This action is taken to amend the language contained in the Rule so as to agree with related language contained in R.S. 9:3891-3899 (Agency Relations in Real Estate Transactions).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated affect on competition and employment.

Julius C. Willie Robert E. Hosse
Executive Director General Government Section Director
0302#046 Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Used Motor Vehicle and Parts Commission**

Repossession of Vehicles
(LAC 46:V.3005)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 32:772.E, the Office of the Governor, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission proposes to adopt Rules and regulations governing Repossessions of Vehicles on Rent with Option to Purchase Programs in accordance with R.S. 32:773.B.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

**Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 30. Rent with Option to Purchase Program**

§3005. Repossession of Vehicles

A. Every dealer participating in a rent with option to purchase program is required to provide to the purchaser notice and an opportunity to cure any default prior to making an attempt to repossess the vehicle. Such notice shall be mailed by registered or certified mail to the last known address furnished by the purchaser on the rent with option to purchase documents, and it shall give the purchaser the

fifteen days opportunity to cure any default in payments. Only after such time has passed, may the dealer attempt to take repossession of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 29:

Family Impact Statement

The proposed Rules of the Louisiana Used Motor Vehicle and Parts Commission should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments no later than 4:30 p.m. on March 20, 2003 to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA, 70808, (225) 925-3870.

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Repossession of Vehicles

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Neither state nor local revenues will be affected as a result of the proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be minimal costs to the dealer in relation to mailing notices to the purchaser of the rent with the option to purchase vehicle. The purchaser in default will be given notice by certified or registered mail to the last known address furnished by the purchaser on the rent with the option to purchase documents. The notice shall give the purchaser of the vehicle a 15 day opportunity to cure any default in payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule on the repossession of vehicle will not impact competition and employment in the public or private sector.

John M. Torrance
Executive Director
0302#026

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners of Psychologists

Ethical Standards of Psychologists
(LAC 46:LXIII.Chapter 13)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to amend §1301 and repeal §§1303-1319.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 13. Ethical Standards of Psychologists

§1301. Ethical Principles and Code of Conduct

A. Psychologists shall follow the APA Ethical Principles of Psychologists and Code of Conduct as adopted by the American Psychological Association's Council of Representatives during its meeting, August 21, 2002, and made effective beginning June 1, 2003. The Ethics Code and information regarding the code can be found on the APA web site, <http://www.apa.org/ethics>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:791 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1303. Competence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:791 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1305. Moral and Legal Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:792 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1307. Public Statements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:792 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1309. Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:793 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1311. Welfare of the Consumer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:793 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1313. Professional Relationships

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:793 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1315. Assessment Techniques

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:794 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1317. Research with Human Participants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:794 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

§1319. Care and Use of Animals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:795 (October 1984), repealed by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:

Inquiries concerning the proposed amendments may be directed in writing to Brenda C. Ward, Executive Director, Board of Examiners of Psychologists, 8280 YMCA Plaza Drive, Building 8-B, Baton Rouge, LA 70810.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Board of Examiners of Psychologists. Written comments must be submitted to and received by the board within 20 days from the date of this notice.

Brenda C. Ward
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Ethical Standards of Psychologists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only cost anticipated to state or local government units to implement this Rule is the \$68 cost of publishing it in the *Louisiana Register*. The LSBEP publishes a newsletter which is distributed to all Louisiana licensed psychologists. This proposed Rule will be published in the next edition of that newsletter. No adjustment is necessary in the workload or printing of this Rule in that publication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed Rule does not effect the collection of revenues of state or local governmental units in any way.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No persons or non-governmental groups will be affected in any way by this proposed Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no competition related to this proposed Rule, nor does this proposed Rule create any impact on employment.

Brenda C. Ward
Executive Director
0302#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

Home and Community Based Services Waiver Program
Children's Choice Crisis Designation
(LAC 50:XXI.11703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a Rule implementing a Home and Community Based Services waiver called Children's Choice effective January 15, 2001 (*Louisiana Register*, Volume 26, Number 12) and subsequently amended the Rule, raising the service cap from \$7,500 to \$15,000 (*Louisiana Register*, Volume 28, Number 8). Children's Choice provides supplemental services, limited to \$15,000 per year per child for waiver services, to children with developmental disabilities who live with their families. Waiver recipients also receive all medical services covered by Medicaid, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services. The department adopted provisions for additional supports outside the

\$15,000 cap on waiver service expenditures should certain catastrophic events occur after a child has been found eligible for Children's Choice (*Louisiana Register*, Volume 27, Number 7). The bureau now proposes to amend the crisis designation criteria in LAC 50:XXI.11703.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The proposed Rule will provide additional support services if a catastrophic change renders the natural and community support system unable to provide for the health and welfare of the child at the level of benefits offered under Children's Choice.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XXI. Home and CommunityB Based Services

Waivers

Subpart 9. Children's Choice

Chapter 117. Crisis Provisions

§11703. Crisis Designation Criteria

A.1. - 4. ...

5. the child's condition deteriorates to the point where the plan of care is inadequate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 28:1986 (September 2002), amended LR 29:

Interested persons may submit written comments to Barbara Dodge at the Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, March 26, 2003 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community Based Services Waiver ProgramC Children's Choice Crisis Designation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact for SFY 2002-03, 2003-04, and 2004-05. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections except for

approximately \$81 for SFY 2002-03 for the federal share of the expense for promulgation of this proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected persons or nongovernmental groups.

This proposed Rule would make qualified recipients eligible for additional benefits above the \$15,000 cap when the child's condition deteriorates to the point where the plan of care is inadequate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0302#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Abortion Facility Licensure (LAC 48:I.Chapter 44)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to promulgate the following Rule as authorized by R.S. 40:2175.1 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in order to implement the provisions of the Louisiana Outpatient Abortion Facility Licensing Law, as established in Act 391 of the 2001 Regular Session of the Louisiana Legislature, which provides the Department of Health and Hospitals with the authority to promulgate Rules governing the licensing and regulation of outpatient abortion facilities.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

§4401. Definitions

Abortion Any surgical procedure performed after pregnancy has been medically verified with the intent to cause the termination of the pregnancy other than for the purpose of:

1. producing a live birth;
2. removing an ectopic pregnancy; or
3. removing a dead fetus caused by a spontaneous abortion.

Department Department of Health and Hospitals, (DHH).

Existing Outpatient Abortion Facility Any outpatient abortion facility, as defined in this §4401, in operation at the time that the licensing standards governing outpatient abortion facilities are promulgated and published.

First Trimester The time period from 6 to 14 weeks after the first day of the last menstrual period.

General Anesthesia Any drug, element, or other material which, when administered, results in a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including a loss of ability to independently maintain an airway and respond purposefully to physical stimuli or verbal command.

Gestational Age The duration of a pregnancy as estimated from the first day of a woman's last menstrual period (LMP) or fertilization date plus two weeks.

Licensed Physicians Assistant A person who:

1. is a graduate of a program accredited by the Committee on Allied Health Education and Accreditation or its successors; and

2. has successfully passed the national certificate examination administered by the National Commission on the Certification of Physician's Assistants or its predecessors; and

3. is approved and licensed by the Louisiana State Board of Medical Examiners to perform medical services under the supervision of a physician or group of physicians who are licensed by and registered with the board to supervise such assistant.

Licensee The person, partnership, corporation, association, organization or professional entity on whom rests the ultimate responsibility and authority for the conduct of the outpatient abortion facility.

Licensing Agency The Louisiana Department of Health and Hospitals.

Local Anesthesia Those anesthetizing agents administered to affect a very small localized area.

Medical Director A physician licensed to practice medicine in Louisiana who is responsible for the direction of the medical services, nursing services, and health-related services provided to patients at an outpatient abortion facility.

Outpatient Abortion Facility Any outpatient facility, other than a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in R.S. 40:2133, in which any second trimester or five or more first trimester abortions per month are performed.

Patient The woman receiving services from an outpatient abortion facility.

Products of Conception Placenta, amniotic sac or membrane, embryo, or fetal elements that result from a human pregnancy.

Second Trimester The time period from 14 to 23 weeks after the first day of the last menstrual period.

Secretary The secretary of the Louisiana Department of Health and Hospitals.

Telecommunications Any means of transmitting messages at a distance, including but not limited to telephones, cell phones, pagers, or other similar devices which foster communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4403. Licensing Requirements

A. An outpatient abortion facility may not be established or operated in this state without an appropriate license issued by the licensing agency.

B. Initial License Application

1. Initial applicants and existing outpatient abortion facilities shall submit a set of architectural plans and specifications to the Office of State Fire Marshal and Division of Engineering and Architectural Services of the department for review and approval.

2. When an architectural requirement on an existing outpatient abortion facility would impose a hardship, financial or otherwise, but would not adversely affect the health and safety of any patient, the existing outpatient abortion facility may submit a request for exception (waiver) to the department, with supporting documentation. The issuance of a waiver by the department does not apply to the Office of State Fire Marshal requirements for approval, which must be addressed exclusively with the Office of State Fire Marshal.

3. An application for license shall be completed and returned to the Health Standards Section by the applicant on forms supplied by the department.

- a. Existing outpatient abortion facilities must secure and return a completed licensing application packet to the department within six months from promulgation and publication of the outpatient abortion facility licensing standards.

- b. Existing outpatient abortion facilities shall be allowed to continue to operate without a license until such time as their initial application is acted upon by the department and until any and all appeals processes associated with that initial license have been completed, or the time within which any appeal process may be undertaken and completed has expired, whichever is later.

4. The application must be accompanied with a nonrefundable licensing fee set in accordance with R.S. 40:2006.

5. The department will respond to the applicant within 45 days of submitting the completed application.

6. Announced on-site inspections will be performed and the facility must be in substantial compliance with the requirements of the following offices prior to the issuance of an initial license:

- a. Office of State Fire Marshal
- b. Office of Public Health
- c. DHH Health Standards Section

C. Renewal Application

1. Application for license renewal shall be completed and returned to the Health Standards Section prior to the expiration date of the current license on forms supplied by the department. The application must be accompanied by the annual renewal fee set in accordance with R.S. 40:2006.

2. Inspection and approval by the State Fire Marshal and Office of Public Health are required annually.

3. The licensing agency may perform an unannounced on-site inspection upon annual renewal. If the outpatient abortion facility continues to meet the requirements

established in R.S. 40:2175.1 et seq., and the licensing standards adopted in pursuance thereof, a license shall be issued which is valid for one year.

D. Other on-site inspections may be performed to investigate complaints in accordance with R.S. 40:2009.13-2009.20 and perform follow-up surveys as deemed necessary to ensure compliance with these licensing standards.

E. Issuance of License

1. Following receipt of the application and the licensing fee, the department shall issue a license if, after an on-site inspection, it finds that the outpatient abortion facility is in full compliance with the requirements established in accordance with R.S. 40:2175.1 et seq., and the licensing standards adopted in pursuance thereof.

2. A provisional license may be issued in cases where additional time is needed for the outpatient abortion facility to comply fully with the requirements established in accordance with R.S. 40:2175.1 et seq., and the licensing standards adopted in pursuance thereof. The licensing agency may issue a provisional license to an outpatient abortion facility for a period not to exceed six months only if the failure to comply is not detrimental to the health or safety of the women seeking treatment in the outpatient abortion facility. The deficiencies that preclude the outpatient abortion facility from being in full compliance must be cited at the time the provisional license is issued.

3. A license issued to an outpatient abortion facility:

- is valid for only one location;
- shall be valid for one year from the date of issuance; unless revoked prior to that date;
- is not transferable or assignable;
- shall be posted in a conspicuous place on the licensed premises.

F. Denial, Suspension or Revocation of License. The procedure for denial, suspension and revocation of a license and appeals resulting from these actions will be the same as provided in the licensing regulations for hospitals, and as contained in R.S. 40:2110.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4405. Governing Body

A. The abortion facility must have a governing body which meets at least annually. The governing body is the ultimate authority of the facility, and as such, it shall approve and adopt all bylaws, rules, policies, and procedures formulated in accordance with these licensing standards. All bylaws, rules, policies, and procedures formulated in accordance with these licensing standards shall be in writing, revised as necessary, and reviewed annually. If, due to type of ownership or other reasons, it is not possible or practical to establish a governing body, as such, then documents shall reveal the person(s) who are legally responsible for the conduct of the facility and are also responsible for carrying out the functions and obligations contained herein pertaining to the governing body.

B. The responsibilities of the governing body shall include, but not be limited to:

1. organization and administration of the facility;

2. acting upon recommendations from the medical staff relative to medical staff appointments;

3. designation of an administrator who has the responsibility to carry out the day-to-day operations of the facility;

4. designation of a medical director who has responsibility for the direction of medical services, nursing services, and health-related services provided to patients;

5. maintenance of the physical plant;

6. ensuring that the facility is equipped and staffed to meet the needs of the patients in the facility; and

7. establishing a system for periodic evaluation of its operation (quality assurance).

C. The governing body shall establish formal lines of communication with the medical staff through a liaison committee or other acceptable methods. This committee will address problems and programs of mutual concern regarding topics including, but not limited to, patient care, cost containment and improved practice.

D. Minutes of meetings of the governing body shall be maintained to adequately reflect the discharging of its duties and responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4407. Administration

A. The administrator is the person who has been designated to carry out the day-to-day operations of the facility which include, but are not limited to the following functions:

1. employing qualified staff to provide the medical and clinical services to meet the needs of the patients being served;

2. assigning duties and functions to each employee commensurate with his/her licensure, certification, and experience and competence;

3. retaining a readily accessible written protocol for managing medical emergencies and the transfer of patients requiring further emergency care to a hospital. The written protocol shall identify which emergency equipment and medications the facility will use to provide for basic life support until emergency transportation can arrive and assume care of those in need of service. The facility shall ensure that when a patient is in the facility for an abortion, there is one physician present who has admitting privileges or has a written transfer agreement with a physician(s) who has admitting privileges at a local hospital to facilitate emergency care;

4. developing disaster plans for both internal and external occurrences. Annual drills shall be held in accordance with the plan. Documentation of these drills shall be recorded;

5. ensuring that a CPR-certified staff member who is currently trained in the use of emergency equipment is on the premises at all times when abortion services are being performed in the facility.

B. Personnel Files

1. Personnel folders shall be maintained on each employee. Contents shall include:

a. application;

b. current license (when required);

- c. health screening reports;
 - d. documentation of areas covered in orientation;
- and
- e. other pertinent information as deemed necessary by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4409. Personnel

A. Medical Staff

1. The medical staff of the facility shall consist of at least one physician who is licensed to practice medicine in Louisiana and is responsible to the governing body of the facility for the quality of all medical care provided to patients in the facility and for the ethical and professional practices of its members.

2. The medical staff shall formulate and adopt bylaws, rules, and policies for the proper conduct of its activities and recommend to the governing body physicians who are considered eligible for membership on the medical staff. Such bylaws, rules, and policies must be in writing and must be approved by the governing body.

3. All applications for membership to the medical staff shall be reviewed by the medical staff and recommendations for appropriate action shall be made to the governing body. The governing body's bylaws shall establish time frames for response to the recommendations of the medical staff.

4. An abortion shall be performed only by a physician who is licensed to practice in Louisiana.

5. A physician must be either present in the facility or immediately available by telecommunications to the staff when there is a patient in the facility.

6. A physician must remain in the facility until all patients are assessed to be stable.

B. Nursing Personnel

1. The nursing services shall be provided under the direction of a qualified registered nurse or medical director.

2. There shall be a plan of administrative authority with delineation of responsibilities and duties for each category of nursing personnel.

3. The number of nursing personnel on duty shall be sufficient to meet the needs of the patient(s) in the facility, as determined by the governing body, medical director, or registered nurse.

4. All nurses employed by the facility to practice professional nursing shall have a current and valid Louisiana nursing license as a registered nurse (RN) or licensed practical nurse (LPN), as appropriate.

5. Nursing care policies and procedures shall be in writing and be consistent with accepted nursing standards. Policies shall be developed for all nursing service procedures provided at the facility. The procedures shall be periodically reviewed and revised as necessary.

6. A formalized program of in-service training shall be developed for all categories of nursing personnel. Training related to required job skills shall be provided to nursing personnel.

C. General Staffing

1. When a patient is in the facility for an abortion, there shall be at least two staff members present, one of which must be either a licensed physician, RN, or LPN.

2. All employees shall be provided orientation and training related to the facility's policies, philosophy, job responsibilities of all staff, and emergency procedures.

D. Health Screening. The facility must have policies governing health screening on personnel in accordance with federal, state and local health laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4411. Pre-Operative Procedures

A. Verification of Pregnancy. The presence of an intrauterine pregnancy shall be verified by one of the following:

1. urine or serum pregnancy test performed on-site;
2. detection of fetal heart tones; or
3. ultrasonography.

B. Duration of Pregnancy. Gestational age shall be estimated by the following methods pre-operatively:

1. date of last menstrual period, if known; and
2. pelvic examination; or
3. ultrasonography.

C. The following laboratory tests shall be performed and documented within 30 days prior to the performance of abortion:

1. hematocrit or hemoglobin determination; and
2. Rh Factor status.

D. Information and Informed Consent. Prior to an Abortion:

1. a written informed consent shall be obtained in accordance with R.S. 40:1299.35.6(B);
2. the clinical record shall reflect informed consent for general anesthesia, if it is to be administered, as well as an indication of the patient's history of negative or positive response (for example, allergic reactions) to medications or any anesthesia to be given;

3. the patient shall be made aware of the importance of her post-operative care and follow-up to ensure that the procedure was properly completed and no long-term sequelae have ensued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4413. Post-Operative Care and Procedures

A. The patient's recovery shall be supervised by a licensed physician, a nurse trained in post-operative care, or a licensed physician's assistant. A patient in the post-operative or recovery room shall not be left unattended.

B. The patient shall be given written post-operative instructions for follow-up care. A contact for post-operative care from the facility shall be available to the patient on a 24-hour basis.

C. A licensed physician or nurse shall assess the patient to be awake, alert and medically stable before she is

discharged in accordance with policies established by the medical director.

D. Upon completion of an abortion procedure, the physician shall immediately perform a gross examination of the uterine contents and shall document the findings in the patient's chart. If no products of conception are visible, a high-risk protocol for continuing pregnancy or ectopic pregnancy shall be followed.

E. Products of conception shall be disposed in compliance with Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA) and other state and local standards covering the treatment of medical waste.

F. Rh immunoglobulin administration shall be offered to Rh-negative women and documented. If Rh immunoglobulin is not administered in the facility, one of the following is required:

1. informed waiver signed by a patient who refuses RH immunoglobulin; or
2. documentation of other arrangements for administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4415. Patient Records and Reports

A. Retention of Patient Records

1. An abortion facility shall establish and maintain a medical record on each patient. The facility shall maintain the record to assure that the care and services provided to each patient is completely and accurately documented, and that records are readily available and systematically organized to facilitate the compilation and retrieval of information. Safeguards shall be established to maintain confidentiality and protection from fire, water, or other sources of damage.

2. The department is entitled to access all books, records, or other documents maintained by or on behalf of the facility to the extent necessary to ensure compliance with this Chapter 44. Ensuring compliance includes permitting photocopying by the department or providing photocopies to the department of any records or other information by or on behalf of the department as necessary to determine or verify compliance with this Chapter.

3. Patient records shall be under the custody of the facility for a period of seven years from the date of discharge. Patient records shall be maintained on the premises for at least one year and shall not be removed except under court orders or subpoenas. Any patient record maintained off-site after the first year shall be provided to the department for review no later than 24 hours from the time the department requests the medical record.

B. Content of Medical Record

1. The following minimum data shall be kept on all patients:

- a. identification data;
- b. date of procedure;
- c. medical and social history;
- d. physical examination;
- e. chief complaint or diagnosis;
- f. clinical laboratory reports (when appropriate);
- g. pathology report (when appropriate);

- h. physicians orders;
- i. radiological report (when appropriate);
- j. consultation reports (when appropriate);
- k. medical and surgical treatment;
- l. progress notes, discharge notes, and summary;
- m. nurses' records of care given, including medication administration records;
- n. authorizations, consents or releases;
- o. operative report;
- p. anesthesia report, including post-anesthesia report; and
- q. special procedures reports.

2. Signatures. Clinical entries shall be signed by the physician as appropriate, i.e., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing notes and observations shall be signed by the nurse.

3. Nurses' Notes. All pertinent observations, treatments and medications given shall be entered in the nurses' notes. All other notes relative to specific instructions from the physician shall be recorded.

4. Completion of the medical record shall be the responsibility of the attending physician.

C. Nothing in this §4415 is intended to preclude the use of automated or centralized computer systems or any other techniques for the storing of medical records, provided the regulations stated herein are met.

D. Other Reports. An abortion facility shall maintain a daily patient roster of all patients receiving abortion services. This daily patient roster shall be retained for a period of three years.

E. Confidentiality

1. If the department, in the course of carrying out its licensing responsibilities under this Chapter 44, obtains any patient identifiable health information regarding a patient from an abortion facility, it shall keep such information strictly confidential and shall not disclose it to any outside person or agency, except as follows:

- a. to the patient who is the subject of the patient identifiable health information;
- b. pursuant to and in compliance with a valid written authorization executed by the patient who is the subject of the patient identifiable health information; or
- c. when required by the secretary of the U.S. Department of Health and Human Services to investigate or determine DHH's compliance with the requirements of the *Code of Federal Regulations*, Title 45, Part 164, Subpart E.

2. Any person who knowingly discloses such patient identifiable information in violation of Subsection A shall be subject to punishment pursuant to 42 U.S.C. §1320d-6 as follows:

- a. a fine of not more than \$50,000, or imprisonment for not more than one year, or both;
- b. if the violation is committed under false pretenses, a fine of not more than \$100,000, or imprisonment for not more than five years, or both; and
- c. if the violation is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, a fine of not more than \$250,000, or imprisonment for not more than 10 years, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4417. Physical Environment

A. The facility shall have a safe and sanitary environment that is properly constructed, equipped and maintained to protect the health and safety of patients and staff at all times.

1. Abortions shall be performed in a segregated procedure room, removed from general traffic lines with a minimum of 120 square feet, exclusive of vestibule, toilets or closets.

2. There shall be a hand washing fixture within each procedure room.

3. The facility shall have a separate recovery room or area with a minimum clear area of 2 feet, 6 inches around the three sides of each stretcher or lounge chair for work and circulation.

4. The following equipment and supplies shall be maintained to provide emergency medical care for problems that may arise and be immediately available to the procedure and recovery room(s):

- a. surgical or gynecologic table;
- b. surgical instruments for the performance of abortion;
- c. emergency drugs (designated as such by the medical director);
- d. oxygen;
- e. intravenous fluids; and
- f. sterile dressing supplies.

5. All openings to the outside shall be maintained to protect against the entrance of insects and animals.

6. A nurse's station with a countertop, space for supplies, provisions for charting and a communication system shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4419. Infection Control

A. The facility shall have policies and procedures that address:

1. decontamination;
2. disinfection;
3. sterilization; and
4. storage of sterile supplies.

B. The facility shall make adequate provisions for furnishing properly sterilized supplies, equipment, utensils and solutions.

1. It is expected that some disposable goods shall be utilized; but when sterilizers and autoclaves are used, they shall be of the proper type and necessary capacity to adequately meet the needs of the facility.

2. Procedures for the proper use of equipment and standard procedures for the processing of various materials and supplies shall be in writing and readily available to personnel responsible for sterilizing procedures.

3. Acceptable techniques for handling sterilized and contaminated supplies and equipment shall be established to avoid contamination.

4. Medically necessary surgical instruments used to enter the uterine cavity shall be sterilized for each abortion procedure.

C. There shall be a separate sink for cleaning instruments and disposal of liquid waste.

D. Each facility shall develop, implement, and enforce written policies and procedures for the handling, processing, storing and transporting of clean and dirty laundry.

1. If the facility provides an in-house laundry, the areas shall be designed in accordance with acceptable hospital laundry design in that a soiled laundry area will be provided and separated from the clean laundry area. Dirty and/or contaminated laundry shall not be stored or transported through the clean laundry area.

2. For an in-house laundry, special cleaning and decontaminating processes shall be used for contaminated linens.

E. The facility shall provide housekeeping services that shall assure a safe and clean environment.

1. Housekeeping procedures shall be in writing and followed.

2. Housekeeping supplies shall be provided to adequately maintain the facility.

F. All garbage and waste materials shall be collected, stored and disposed of in a manner designed to prevent the transmission of contagious diseases, and to control flies, insects, and animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4421. Pharmaceutical Services

A. The facility shall provide pharmacy services and these services shall be commensurate with the needs of the patients and in conformity with state and federal laws.

B. There shall be policies and procedures for the storage, distribution, and handling and administration of drugs and biologicals in the facility.

C. The facility shall provide facilities for proper storage, safeguarding and distribution of drugs.

1. Drug cabinets must be constructed and organized to assure proper handling and safeguard against access by unauthorized personnel.

2. Storage areas shall have proper controls for ventilation, lighting and temperature.

3. Locked areas shall be designed to conform with state and federal laws.

D. In accordance with all applicable laws, records shall be kept on:

1. all ordering, purchasing, dispensing, and distribution of drugs; and
2. the disposal of unused drugs.

E. Records for prescription drugs dispensed to each patient shall contain the:

1. full name of the patient;
2. name of the prescribing physician;
3. name and strength of the drug;
4. quantity dispensed; and
5. date of issue.

F. Provision shall be made for emergency pharmaceutical service.

G. All outpatient abortion facilities shall have a site-specific Louisiana controlled dangerous substance license and United States Drug Enforcement Administration controlled substance registration for the facility in accordance with the Louisiana Uniform Controlled Dangerous Substance Act and Title 21 of the *United States Code*.

H. Drugs and biologicals shall be administered in compliance with an order from an individual who has prescriptive authority under the laws of Louisiana. Such orders shall be in writing and signed by the individual with prescriptive authority under the laws of Louisiana.

I. There shall be a supply of drugs for stabilizing and/or treating medical and surgical complications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§4423. Anesthesia Services

A. The facility shall have policies and procedures pertaining to the administration of general and local anesthesia that are approved by the medical director.

B. Local anesthesia, nitrous oxide, and intravenous sedation shall be administered by the treating physician or by qualified personnel under the orders and supervision of the treating physician, as allowed by law.

C. General anesthesia, if used, shall be given by an anesthesiologist, certified registered nurse-anesthetist (CRNA), or a physician trained in the administration of general anesthesia.

D. The physician who will perform the abortion shall be present in the facility before anesthesia is administered.

E. A physician shall be present in the facility during the post anesthesia recovery period until the patient is fully reacted and stable.

F. When there is a general anesthesia patient present in the facility, personnel trained in the use of all emergency equipment required shall be present on the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, March 26, 2003 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Abortion Facility Licensure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that there will be no estimated costs to the state as a result of implementation of this proposed Rule. It is anticipated that \$1,566 (\$783 SGF and \$783 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will increase self generated funds by approximately \$845 for SFY 2002-03, \$7,800 for SFY 2003-04 and SFY 2004-05 as a result of the collection of annual fees from the licensing of outpatient abortion facilities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that implementation of this proposed Rule will increase funds by approximately \$1,628 (\$845 self generated and \$783 federal) for SFY 2002-03, \$7,800 self generated for SFY 2003-04 and for SFY 2004-05 as a result of the collection of annual fees from the licensing of approximately 13 outpatient abortion facilities at a cost of approximately \$600 for each facility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0302#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Durable Medical Equipment Program Vagus Nerve Stimulator (LAC 50:XVII.Chapter 136)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage for durable medical equipment and supplies under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized to determine medical necessity. In concurrence with the recommendations of the Medical Practices Committee, the bureau established medical necessity criteria for the prior authorization of Vagus Nerve Stimulators (*Louisiana Register*, Volume 27, Number 11). The Vagus Nerve Stimulator is an implantable

device used to assist in the control of seizures related to epilepsy. The department now proposes to adopt a Rule to continue the provisions contained in the November 1, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. The proposed Rule will promote the health and well being of Medicaid recipients who have epilepsy related seizures and may benefit from use of this medical device.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following criteria for the prior authorization of Vagus Nerve Stimulators under the Durable Medical Equipment Program.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XVII. Durable Medical Equipment

Subpart 1. Prosthetics

Chapter 136. Vagus Nerve Stimulator

§13601. Prior Authorization

A. The Vagus Nerve Stimulator (VNS) is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician. Implantation of the VNS device and all related procedures must be authorized by the department based on criteria in §§13603-13607.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§13603. Recipient Criteria

A. Inclusion Criteria. Consideration shall be given for Medicaid reimbursement for implantation of the VNS if the treatment is considered medically necessary and the patient meets all of the following criteria. The patient:

1. has medically intractable epilepsy;
2. is 12 years of age or older, although case-by-case consideration may be given to younger children who meet all other criteria and have sufficient body mass to support the implanted system;
3. has a diagnosis of partial epilepsy confirmed and classified according to the *International League Against Epilepsy* classification. The patient may also have associated generalized seizures, such as tonic, tonic-tonic, or atonic. The VNS may have efficacy in primary generalized epilepsy as well;
4. has seizures that resist control by antiepilepsy treatment, with adequately documented trials of appropriate antiepilepsy drugs or documentation of the patient's inability to tolerate these medications;
5. has undergone surgical evaluation and is not considered to be an optimal candidate for epilepsy surgery;
6. is experiencing at least four to six identifiable partial onset seizures each month. The patient must have had

a diagnosis of intractable epilepsy for at least two years. The two-year period may be waived if it is deemed that waiting would be harmful to the patient;

7. has undergone Quality of Life (QOL) measurements. The choice of instruments used for the QOL must assess quantifiable measures of day to day life in addition to the occurrence of seizures. In the expert opinion of the treating physician, and clearly documented in the request for prior authorization, there must be reason to believe that QOL will improve as a result of the VNS implant. This improvement should be in addition to the benefit of seizure frequency reduction.

B. Exclusion Criteria. Regardless of the provisions of §13603.A, authorization for implantation of a VNS shall not be given if the patient meets one or more of the following criteria. The patient:

1. has psychogenic seizures or other nonepileptic seizures; or
2. has systemic or localized infections that could infect the implanted system; or
3. has a body mass that is insufficient to support the implanted system; or
4. has a progressive disorder that is a contraindication to VNS implantation. Examples are malignant brain neoplasm, Rasmussen's encephalitis, Landau-Kleffner Syndrome and progressive metabolic and degenerative disorders. Progressive disorders, psychosis, or mental retardation that are not contraindications to VNS implantation are not exclusion criteria. Taking into consideration the additional diagnosis, the treating physician must document the benefits of the VNS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§13605. Reprogramming Vagus Nerve Stimulator

A. The programming of the VNS stimulator must be performed by the neurosurgeon who performed the implant procedure or a licensed neurologist. The procedure is subject to prior authorization. Authorization will only be considered when there is medical documentation to support the need for programming. This documentation must include clinical evidence to show that the recipient has experienced seizures since any previous programming attempts. Payment for the programming procedure will only be authorized when it is performed as an attempt to reduce or prevent future episodes of seizures. The success or failure of previous programming attempts to reduce the onset and/or severity of seizure activity will be considered. Authorization will not be considered when the clinical documentation does not show any seizure activity since the last programming of the VNS implant or the purpose of the programming is solely to reduce the level of anti-epileptic drugs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§13607. Subsequent Implants/Battery Replacement

A. Requests to replace batteries or for new implants must be submitted with documentation that shows that the recipient was benefiting from the original VNS transplant.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, March 26, 2003 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Durable Medical Equipment
ProgramC Vagus Nerve Stimulator**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$149,671 for SFY 2001-02, \$258,375 for SFY 2002-03, \$261,368 for SFY 2003-04, and \$269,209 for SFY 2004-05. It is anticipated that \$324 (\$162 SGF and \$162 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$355,292 for SFY 2001-02, \$633,570 for SFY 2002-03, \$657,002 for SFY 2003-04 and \$676,712 for SFY 2004-05.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that the implementation of this proposed Rule will increase program expenditures for Vagus Nerve Stimulators by approximately \$504,963 for SFY 2001-02, \$891,621 for SFY 2002-03, \$918,370 for SFY 2003-04 and \$945,921 for SFY 2004-05. It is anticipated that implementation of this proposed Rule will increase utilization of the VNS device as more Medicaid recipients will meet the prior authorization criteria.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0302#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Personal Care Services
Long Term Care
(LAC 50:XV.Chapter 129)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage and reimbursement for personal care services under the Early and Periodic Screening, Diagnosis and Treatment Program for recipients who are up to the age of 21. Coverage is also provided for personal care attendant services under the Home and Community-Based Services Waiver Program in accordance with the age criteria specified in the particular waiver document. In accordance with the terms of a lawsuit settlement agreement, the bureau proposes to establish coverage of personal care services as an optional service under the Medicaid State Plan for recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration for disability benefits.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that implementation of this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will enhance the long term care service alternatives that are available to Medicaid recipients.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following provisions governing the coverage of personal care services as an optional service under the Medicaid State Plan for recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration for disability benefits.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. The purpose of personal care services is to enable an individual whose needs would otherwise require placement in an acute or long term care facility to remain safely in that individual's own home. The mission of Medicaid funded personal care services is to supplement the family and/or community supports that are available to maintain the

recipient in the community. This service program is not intended to be a substitute for available family and/or community supports. Personal care services must be prescribed by a physician and provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid services being provided to the recipient and will be considered in conjunction with those other services. Personal care services will be provided in a manner consistent with the basic principles of consumer direction as set forth in § 12907.

B. An assessment shall be performed for every recipient who requests personal care services. This assessment shall be utilized to identify the recipient's long term care needs, preferences, the availability of family and community supports and to develop the service plan. The Minimum Data Set-Home Care (MDS-HC) System will be used as the basic assessment tool. However, other assessment tools may be utilized as a supplement to the MDS-HC to address the needs of special groups within the target population.

C. Prior Authorization. Personal care services must be prior authorized. Requests for prior authorization must be submitted to the Bureau of Health Services Financing or its designee and include a copy of the assessment form and the service plan. Any other pertinent documents that substantiates the recipient's request for services may also be submitted. These documents will be reviewed to determine whether the recipient meets the criteria for personal care services and the necessity for the number of services hours requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the activities of daily living (ADL) and the instrumental activities of daily living (IADL). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by an individual for continued well-being, health and safety. ADLs include tasks such as:

1. eating;
2. bathing;
3. dressing;
4. grooming;
5. transferring (getting in/out of the tub, from a bed to a chair);
6. reminding the recipient to take medication;
7. ambulation; and
8. toileting.

B. IADLs are those activities that are considered essential for sustaining the individual's health and safety, but may not require performance on a daily basis. IADLs include tasks such as:

1. light housekeeping;
2. food preparation and storage;
3. grocery shopping;
4. laundry;

5. assisting with scheduling medical appointments when necessary;

6. accompanying the recipient to medical appointments when necessary due to the recipient's frail condition; and

7. assisting the recipient to access transportation.

C. Emergency and non-emergency medical transportation is a covered Medicaid service and is available to all recipients. Non-medical transportation is not a required component of personal care services. However, providers may choose to furnish transportation for recipients during the course of providing personal care services. If transportation is furnished, the provider agency must accept any liability for their employee transporting a recipient. It is the responsibility of the provider agency to ensure that the employee has a current, valid driver's license and automobile liability insurance. See § 12917 regarding reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12905. Recipient Qualifications

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration for disability benefits. The recipient must require assistance with at least three activities of daily living, be able to participate in his/her care and self direct the services provided by the personal care worker independently or through a responsible representative, meet the nursing facility requirements for a reduced physical functions level of care, and meet one of the following criteria. The recipient:

1. is in a nursing facility and could be discharged if community-based services were available;
2. is likely to require nursing facility admission within the next 120 days;
3. has a primary care-giver who has a disability or is over the age of 70; or
4. faces a substantial possibility of deterioration in mental or physical condition or functioning if either home and community-based services or nursing facility services are not provided in less than 120 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12907. Recipient Rights

A. Recipients who receive services under Long Term Personal Care Services Program have the right to actively participate in the development of their service plan and the decision-making process regarding service delivery. Recipients also have the right to freedom of choice in the selection of a provider of personal care services and to participate in the following activities:

1. interviewing and selecting the personal care worker who will be providing services in their home;
2. developing the work schedule for their personal care worker;
3. training the individual personal care worker in the specific skills necessary to maintain the recipient's

independent functioning while safely maintaining him/her in the home;

4. developing an emergency component in the service plan that includes a list of personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled work from providing services;

5. signing off on payroll logs and other documentation to verify staff work hours and to authorize payment;

6. evaluating the personal care worker's job performance; and

7. transferring or discharging the personal care worker assigned to provide their services;

8. an informal resolution process to address their complaints and/or concerns regarding personal care services; and

9. a formal resolution process to address those situation where the informal resolution process fails to resolve their complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12909. Standards for Participation

A. In order to participate as a personal care services provider in the Medicaid Program Service, an agency:

1. must comply with:

a. state licensing regulations;

b. Medicaid provider enrollment requirements;

c. the standards of care set forth by the Louisiana Board of Nursing; and

d. the policy and procedures contained in the personal care services provider manual;

2. must possess a current, valid license for the Client Services Providers, Personal Care Attendant Services Module issued by the Department of Social Services, Bureau of Licensing.

B. In addition, a Medicaid enrolled agency must:

1. either demonstrate experience in successfully providing direct care services to the target population or demonstrate the ability to successfully provide direct care services to the target population;

2. employ a sufficient number of personal care and supervisory staff to ensure adequate coverage in the event that a worker's illness or an emergency prevents him/her from reporting for work;

3. ensure that a criminal background check and drug testing is conducted for all direct care staff prior to an offer of employment being made;

4. ensure that the direct care staff is qualified to provide personal care services. Assure that all new staff satisfactorily completes an orientation and training program in the first 30 days of employment. A legally responsible relative is prohibited from being the paid personal care worker for a family member;

5. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The subcontracting of individual personal care staff and/or supervisors is prohibited;

6. implement and maintain an internal quality assurance plan to monitor recipient satisfaction with services on an ongoing basis; and

7. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

8. have written policies and procedures that recognize and reflect the recipient's right to participate in the activities set forth in § 12907.

9. have a written policy for an informal resolution process to address recipient complaints and/or concerns regarding personal care services; and

10. have a written policy for a formal resolution process to address those situation where the informal resolution process fails to resolve the recipient's complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12911. (Reserved)

§12913. Place of Service

A. Personal care services may be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities. The recipient's home is defined as the recipient's place of residence including his/her own house or apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. A hospital, an institution for mental disease, a nursing facility, or an intermediate care facility for the mentally retarded, are not considered to be the recipient's home.

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state. However, consideration will be given when the recipient lives in an area adjacent to the state's border and it is customary for residents of that area to seek medical and other services in the neighboring state.

C. Personal care services shall not be provided in the personal care worker's home. However, consideration will be given if it can be satisfactorily assured that:

1. the selection of the place of service is consistent with the recipient's choice;

2. the recipient's health and safety can be maintained when services are provided in the personal care worker's home; and

3. the services do not substitute for otherwise available family and/or community supports.

D. Place(s) of service must be documented in the service plan and progress notes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12915. Service Limitations

A. Personal care services shall be limited to up to 56 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient's service plan and supporting documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

§12917. Reimbursement Methodology

A. Reimbursement for personal care services shall be a prospective flat rate for each approved unit of service that is provided to the recipient. One quarter hour is the standard unit of service for personal care services. Reimbursement shall not be paid for the provision of less than one quarter hour of service. Additional reimbursement shall not be available for transportation furnished during the course of providing personal care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, March 26, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Personal Care
Services C Long Term Care**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$8,060,691 for SFY 2003-04, \$8,302,511 for SFY 2004-05, and \$8,551,587 for SFY 2005-06. It is anticipated that \$702 (\$351 SGF and \$351 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$20,262,186 for SFY 2003-04, \$20,870,052 for SFY 2004-05, and \$21,496,153 for SFY 2005-06.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed Rule will establish coverage of personal care services as an optional service under the Medicaid State Plan for recipients who are 65 years of age or older, or 21 years of age or older and disabled (that meet Social Security Income criteria). Implementation of this proposed Rule will increase program expenditures for personal care services (for approximately 2,211 recipients) by

approximately \$28,322,877 for SFY 2003-04, \$29,172,563 for SFY 2004-05, and \$30,047,740 for SFY 2005-06.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no known effect on competition. It is anticipated that employment opportunities will increase for individuals to work as personal care services workers.

Ben A. Bearden
Director
0302#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Board of Examiners for New Orleans and
Baton Rouge Steamship Pilots**

Enhanced Drug and Alcohol Policy
(LAC 46:LXXVI.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review (hereinafter "board") hereby intends to adopt Rules regarding enhancement of current drug and alcohol policies, together with other violations and penalties associated therewith.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

PART LXXVI. Steamship Pilots

Chapter 3. Enhanced Drug And Alcohol Policy

§301. Purpose and Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA pilots, the board will maintain and enforce a policy of no tolerance for the violation of its policies, rules and regulations as to those river pilots who pursuant to R.S. 34:1041 et seq. have the duty to pilot sea-going vessels up and down the Mississippi River generally from mile 88 AHP to mile 304 AHP (Latitude 31). These rules and regulations are enacted to accomplish those purposes required by the legislature and to protect the public by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this board.

B. Further, the Louisiana legislature formed this board for the additional purpose of establishing rules, regulations and requirements for all NOBRA pilots to establish standards for recommendation by the board to the governor of the state of Louisiana for such disciplinary matters who may have violated same.

C. The purposes of these rules and regulations are as follows:

1. to enhance general standards of conduct of pilots herein; and
2. for the board to recommend to the Office of the Governor such sanctions as are permitted herein; and
3. to enhance certain minimum standards of conduct relative to alcohol and substance abuse; and
4. to enhance a set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§303. Application

A. The board hereby adopts the following enhanced rules and regulations relating to a drug and alcohol abuse policy applicable to all state licensed NOBRA Pilots pursuant to the provisions of R.S. 34:1041 et seq., together with all apprentices and candidates. These rules and regulations are not intended to replace those rules and regulations in existence. Current rules and regulations are not superceded nor replaced. What follows is intended only to enhance and strengthen the existing rules and regulations. Any conflict is to be construed and resolved in the stricter sense and implementation. With that end, all current rules and regulations are adopted herein in extenso.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§305. Statement of Findings

A. This board has always had a strong commitment and policy to establish programs promoting the highest standards of pilot health, safety and welfare. Consistent with the spirit and intent of this on-going commitment, the board herewith re-establishes and re-enforces these policies. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug use and abuse. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from any incident or occasion that may result in any loss, adverse effect or harm to the state's or general public's safety, health and welfare.

B. While the board has no intention of intruding into the private lives of NOBRA pilots, apprentices or candidates, the board does expect that these persons report for work in a fit condition to perform their respective duties. The board recognizes that off-the-job incidents, as well as on-the-job incidents, and involvement with alcohol and drugs can have an impact on the work place and on a river pilot's ability to accomplish the board's goals herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§307. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements of oversight for NOBRA pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§309. Definitions

A. As used in this Chapter, the following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act(APA) the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

*Alcoholic Beverage/Alcohol*Any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol; any substance that may otherwise impair or affect the ability of a pilot to function in any way whatsoever.

*Applicant/Candidate*Any person who seeks or is seeking a pilot commission issued herein; also may be used interchangeably with "pilot."

*Application*the written application supplied by the Board of Examiners to an applicant who desires to become a river pilot as per law and/or for the New Orleans-Baton Rouge Pilot Association.

*Apprentice*Any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

*Association*New Orleans-Baton Rouge Steamship Pilot Association

*Board of Examiners or Board of Review*the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and/or Board of Review, established in R.S. 34:1041 et seq.

*Candidate*Any person enrolled and/or participating in the orientation program as established by this board; also may be used interchangeably with "pilot."

*Drug*Any and all controlled dangerous substances as defined in R.S. 40:961(7). Drugs which are illegal under federal, state, or local laws include but are not limited to, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited or licensed physician.

*Gender*the use of "his" or "her" or any reference to masculinity or femininity are to be used interchangeably

*NOBRA Pilot or Pilot*Ca Mississippi River pilot under the jurisdiction of this Commission, as designated in R.S. 34:1041; any person as recommended by the board to the Office of the Governor and commissioned thereafter as per law; hereinafter "pilot."

*Prescription Medication*Any medication distributed by or with the authorization of a licensed physician as defined in R.S. 40:961 (30).

*VTCC*Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

*Waterways*the Mississippi River generally between mile 88 AHP and Mile 304 AHP (Latitude 31).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§311. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§313. Effective Date

A. These rules and regulations shall be in full force and effective ninety days after final publication in the *Louisiana Register* or as per law, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§315. Violations of the Policy

A. Any pilot in violation of these policies, rules or regulations may be referred to the Office of the Governor for reprimand, fine, suspension and/or pilot commission revocation, unless otherwise provided for in this board's rules and regulations.

B. Any pilot in violation of this policy may be reprimanded, fined, evaluated, and treated for drug use and have his or her pilot commission suspended or revoked as provided by R.S. 34:1041 et seq.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:1041 et seq. and Revised Statute Title 49 upon the following:

1. tests positive for any drug;
2. uses any drug in violation of these rules and regulations;
3. refuses to submit to reasonable scientific testing for drugs and/or fails to cooperate fully with the testing procedures and/or in any way attempts to alter the test results;
4. tests positive for alcohol;
5. refuses to submit to a blood alcohol test and/or fails to cooperate fully with the testing procedure and/or in any way attempts to alter the test results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§317. Standards of Safe Pilotage, Grounds for Recommendation to the Governor

A. Subject to the authority of the Office of the Governor, as per law, this board shall be exclusively and unilaterally be vested with the power and authority to recommend to the Office of the Governor of Louisiana revocation and/or suspension of all rights and privileges of river pilotage for appointment as a NOBRA Pilot, apprentice, and/or candidate for any violation of the board's drug and alcohol rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§319. Effect of Positive Tests/ Disciplinary Action

A. Any NOBRA pilot, apprentice or candidate with alcohol or a prohibited drug detected in his system will have an opportunity to explain any medical condition which may have had an effect on the test result. However, passive inhalation or atmospheric contamination are not acceptable explanations for confirmed positive drug tests.

B. Any positive drug screen or positive alcohol test shall be reported to the U.S. Coast Guard and may place the pilot's license in jeopardy. Any NOBRA pilot testing positive for alcohol or a prohibited drug, or residual thereof, shall be

removed from duty, pursuant to §111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Any NOBRA pilot who presents a positive alcohol test or drug screen shall be subject to disciplinary action by the Board of Examiners/Board of Review, including the recommendation of revocation or suspension of his commission by the governor, reprimand or treatment/rehabilitation. The proper disciplinary action shall be determined by the Board of Examiners/Board of Review on a case by case basis. Any pilot who is required to undergo evaluation and/or treatment for drug use and/or alcohol abuse shall do so at his own personal expense. In addition, the evaluation and treatment facility must be pre-approved by the Board of Examiners/Board of Review.

C. Refusing a drug screen and/or alcohol test, or any attempts at alteration or substitution of samples is considered a violation of these rules. Any NOBRA pilot who refuses to submit to a drug screen and/or alcohol test, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results, shall be removed from duty as a pilot pursuant to §111.L of the commission's rules, pending a hearing pursuant to R.S. 34:1042. Furthermore, any refusal to submit to a drug screen and/or alcohol test, failure to cooperate fully with the testing procedures, or any attempt to alter the test results shall be considered by the Board of Examiners/Board of Review as a positive test result. In addition, avoiding the directions of the Board of Examiners/Board of Review after an accident/incident which mandatorily requires a drug/alcohol screen will be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/Board of Review.

D. In addition, if the master of a vessel refuses a pilot's services due to the alleged impairment of the pilot, the pilot shall immediately contact a member of the Board of Examiners/Board of Review to receive instructions regarding testing. The pilot shall then immediately proceed to a testing facility selected and pre-designated by the Board of Examiners/Board of Review. Failure to proceed to the testing facility in the time allowed by the Board of Examiners/Board of Review, which shall be determined at the time, but shall not exceed three hours, shall be considered a refusal to test and will subject the offending pilot to disciplinary action by the Board of Examiners/Board of Review.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 34:1041

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§321. Prohibitions and Requirements of the Policy

A. It shall be assumed that a NOBRA pilot, under any influence of alcohol or drugs or who uses alcohol or drugs on the job, has the potential for interfering with his own safety, as well as that of the vessel he is piloting and other vessels in the area, together with danger to related property and personnel. Consistent with existing board practices, such conditions shall be immediate cause for disciplinary action.

B. The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§323. Drug and Alcohol Testing

A. All current NOBRA pilots, applicants and/or apprentices shall be subject to testing for the presence of alcohol and the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine, together with any and all other substances as may be tested as ordered by the board.

B. Types of Testing

1. All pilots shall submit to all reasonable scientific testing for drugs and alcohol when directed by the board. All procedures conducted in connection with such testing shall comply with NOBRA rules and regulations as of this date, and as those that may be amended from time to time.

2. A pilot shall be required to submit a breath test and/or blood test and/or urine test and/or hair specimen test for the presence of drugs and/or alcohol under the following non-exclusive circumstances:

- a. prior to recommendation for appointment, as a part of the physical exam required by law and these rules and regulations;
- b. after recommendation, whenever the pilot is required by the board to undergo a physical examination;
- c. upon written complaint investigated by this board;
- d. when and if any commissioner invokes the provision of any of its rules and regulations, including but not limited to LAC 46:LXXVI.111.L;
- e. when subject to the random drug or alcohol testing policy as created by the NOBRA Association;
- f. when subject to the random drug or alcohol testing policy as created by this board;
- g. when the pilot is reasonably suspected of using drugs in violation of this policy;
- h. when the pilot is determined to be directly involved in a marine casualty or accident;
- i. when there exists reasonable suspicion that a pilot is performing duties while under the influence of alcohol or drugs.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of alcohol and/or drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

§325. Test Results

A. Any pilot, whose test is confirmed as positive, shall have the right of reasonable immediate access to drug tests records. Any and all pilot requests shall be in writing and delivered to the board without delay.

B. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, as per law, be confidential and disclosed only to this board and the pilot tested, except that:

- 1. the board may report the results to the Office of the Governor; and
- 2. in the event that the board determines that a hearing is required pursuant to R.S. 34:1041 et seq., there shall be no requirement of confidentiality in connection with such

hearing or release of such medical records or test results, all as per law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots and Board of Review, LR 29:

Interested persons may submit written comments no later than 4:30 p.m. on March 12, 2003 to Robert A. Barnett, Executive Director, 3900 River Road, Suite 5, Jefferson, LA 70121.

Henry G. Shows
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Enhanced Drug and Alcohol Policy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no cost to the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, nor the state of Louisiana for this Rule change and implementation. All expenses, if any, are paid by the Pilot Association, as per law. All funds paid by the NOBRA Association are generated by pilot fees paid by shipping concerns and industry members.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule change may result in an increase in costs for those pilots who must retain any attorney for representation in a disciplinary hearing. Also, pilots who are required to undergo evaluation and/or treatment for drug and/or alcohol use shall do so at his/her own expense.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any NOBRA pilot who presents a positive drug or alcohol test or drug screen shall be subject to disciplinary action by the Board of Review and/or Board of Examiners, including revocation or suspension of the pilot commission by the Office of the Governor. Penalties may also include fines, reprimands and/or treatment/rehabilitation.

Robert A. Barnett
Executive Director
0302#021

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Board of Examiners for New Orleans and
Baton Rouge Steamship Pilots**

Standards of Conduct and Investigations
(LAC 46:LXXVI.Chapter 4)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots for the Mississippi River (hereinafter "board") hereby intends to adopt Rules regarding standards of conduct, standards of proper and safe pilotage, standards of recency of service,

conditions of reinstatement, procedures for investigations and enforcement, together with other violations and penalties associated therewith.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXVI. Steamship Pilots

Chapter 4. Standards of Conduct and Investigations

§401. Purpose/Statement of Policy

A. Due to the safety sensitive nature of the duties performed by NOBRA pilots, the board, with respect to pilotage up and down the Mississippi River generally from mile 88 AHP to mile 304 (Latitude 31) along the Mississippi River:

1. will maintain and enforce a strict policy of no tolerance for the violation of its policies, rules and regulations;

2. will maintain and enforce a strict policy of no tolerance for misconduct or conduct unbecoming of a pilot while on or off duty;

3. will establish standards for recommendation of NOBRA pilots to the governor of the state of Louisiana for such disciplinary matters for pilots who pursuant to R.S. 34:1041 et seq. may have violated these rules and regulations and/or work related thereto, including but not limited to services rendered at the Vessel Traffic Center (commonly known as "VTC");

4. will maintain and enforce a strict policy of full and complete oversight as is necessary to ensure that pilots who return to duty after varying degrees of absences shall comply with the following rules and regulations herein below;

5. will establish procedures in conformity with the requirements of the Administrative Procedure Act (R.S. 49:950 et seq.) for investigating and conducting such hearings relative to incidents and/or complaints of pilot misconduct, carelessness, and/or incompetence;

6. will establish certain additional minimum standards of conduct, including but not limited to conduct relative to neglect of duty, drunkenness, habitual intemperance, substance abuse, incompetency, maintaining proficiency, remaining properly posted, and general bad conduct of river pilots;

7. will maintain and enforce a strict policy of conducting full and complete investigations, and possible subsequent referrals to the Office of the Governor of any and all violations of commission rules and state and/or federal law;

8. will maintain and enforce a strict policy of no tolerance of the failure of a NOBRA pilot to maintain all applicable licenses, certificates and commissions as may be administered and/or issued by any local, state or federal governmental agency as are necessary to pilot vessels herein;

9. will maintain a policy of no tolerance for the failure of a NOBRA pilot, within the jurisdiction of this board, to pilot vessels for less than a certain number of trips within a specified time period, all in order to maintain familiarity and continuous working knowledge of the Mississippi;

10. to provide a situational policy for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of the NOBRA pilots;

11. will establish general standards of pilotage hereunder and herein;

12. will establish standards to recommend to the Office of the Governor such sanctions of NOBRA Mississippi River pilots as is permitted herein;

13. will establish certain minimum standards of pilotage time actually performed on the Mississippi River to assist in establishing competency of NOBRA pilots;

14. will provide a uniform set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of this board;

15. will establish standards by which this board may recommend a pilot to return to work as a pilot or, where applicable, otherwise recommend or deny to the Office of the Governor of the State of Louisiana such an individual for re-appointment as NOBRA Mississippi River pilots who pursuant to R.S. 34:1041 et seq.;

16. will ensure compliance by the board with the Public Meetings Law. These rules and regulations are enacted to accomplish those purposes required by the legislature and to protect the public by ensuring safe and competent pilotage of vessels on the waterways under the jurisdiction of this board;

17. to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services;

18. will establish standards of oversight and rules for apprentices and candidates; and

19. will maintain and enforce a policy where there shall be no other violation of these rules and regulations that is contrary, in the discretion of this board, to these rules and regulations herein.

B. In accordance with state law and in order the board of examiners proposes to adopt the following pertaining to the rules and regulations of the board.

C. This board has always had a strong commitment and policy to the pilot members of NOBRA Association to provide a safe work place and to establish programs promoting the highest standards of pilot health, safety and welfare. Consistent with the spirit and intent of this on-going commitment, the board herewith re-establishes and reinforces these policies. The board's stated goal will continue to be one of establishing and maintaining a work environment that is free from any incident or occasion that may result in any loss, adverse effect or harm to the safety, health and welfare of the public's interests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§403. Application

A. The board hereby adopts the following rules and regulations relating to all applicants, apprentices, and state licensed NOBRA pilots pursuant to the provisions of R.S. 34:1041 et seq. These rules and regulations are not intended to replace those rules and regulations in existence. Current rules and regulations are not superceded nor replaced. Where applicable, what follows is intended only to enhance and/or clarify existing rules and regulations. Where applicable, any conflict is to be construed and resolved in the stricter sense and implementation. With that end, all current rules and regulations are adopted and incorporated herein in extenso.

With that end, all current rules and regulations are to be read in para materii.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§405. Statement of Findings

A. This board has always had a strong commitment and policy to the general public and maritime industry, including but not limited to apprentices and candidates and the pilot members of NOBRA Association to provide a safe work place and to establish programs promoting the highest standards of pilot health, safety and welfare. Consistent with the spirit and intent of this on-going commitment, the board herewith re-establishes and re-enforces all rules and regulations. The board's stated goals will continue to be one of establishing and maintaining a work environment that is free from any incident or occasion that may result in any loss, adverse effect or harm to the state's or general public's safety, health and welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§407. Authority

A. As mandated by R.S. 34:1041, these rules and regulations are issued by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots in accordance with the Administrative Procedure Act under R.S. 49:950 et seq., for the purpose of adopting rules, regulations and requirements for pilot oversight for NOBRA pilots, apprentices and candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq..

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§409. Definitions

A. As used in this Chapter, the following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act (APA) Cthe Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Applicant/Candidate Cany person who seeks or is seeking a pilot commission issued herein.

Application Cthe written application supplied by the board of examiners to an applicant who desires to become a river pilot as per law and/or for the New Orleans-Baton Rouge Pilot Association.

Apprentice Cany person enrolled and/or participating in the orientation program as established by this board.

Association CNew Orleans-Baton Rouge Steamship Pilot Association.

Board of Examiners or Board Cthe Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, as established in R.S. 34:1041 et seq.

Gender Cthe terms "his" and "her" are to be used interchangeably, as are any references to that which may be masculine or feminine.

NOBRA Pilot or Pilot Ca Mississippi River pilot under the jurisdiction of this Commission, as designated in R.S. 34:1041; any person as recommended by the board to the

Office of the Governor and commissioned thereafter as per law; hereinafter "pilot."

Services of a Pilot Cany advice or assistance with respect to pilotage by the commissioned pilot, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

Time Cshall mean the period of time necessary to commence and complete a job assignment, as dispatched, aboard a vessel or at the Vessel Traffic Center (VTC) or other similar event.

Turn Cshall mean the overall time-period necessary to complete the designated scope of work to be performed, including but not limited to a vessel, drug testing continuing education or at the VTC.

VTC Vessel Traffic Center, or any other similarly related United States Coast Guard or governmental facility, institution, or program whatsoever.

Waterways Cthe Mississippi River generally between mile 88 AHP and Mile 304 (Latitude 31).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§411. Severability

A. If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§413. Effective Date

A. These rules and regulations shall be in full force and effect ninety days after final publication in the *Louisiana Register*, or as per law, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§415. Violations of the Policy

A. This board may take such action as is necessary for any violation of these policies, rules and regulations by any pilot, apprentice, or candidate who violate these policies, rules or regulations, or the board may refer such person to the Office of the Governor, if required by law, for reprimand, fine, suspension and/or pilot commission revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§417. Standards of Conduct: Proper and Safe Pilotage; Grounds for Disqualification and Suspension of Pilots, Apprentices, and Candidates; Grounds to Recommend Revocation of Pilot Commission

A. This board shall be exclusively and unilaterally vested with the power and authority to take action as to all rights and privileges of river pilotage as to a NOBRA Pilot, apprentice, and/or candidate for the following non-exclusive list of particulars.

B. This board shall be exclusively and unilaterally vested with the power and authority to recommend to the Office of

the Governor of Louisiana revocation and/or suspension of all rights and privileges of river pilotage, for appointment as to a NOBRA pilot, apprentice, and/or candidate for the following non-exclusive list of particulars:

1. failure to pass any examination given by the board of examiners;
2. failure to maintain, in good, valid and current standing, any and all maritime licenses and certificates necessary to pilot vessels as a NOBRA pilot, including but not limited to a U.S. Coast Guard First Class Pilot License of any gross tons between mile 88 AHP and mile 234 AHP;
3. conviction of any felony from any jurisdiction whatsoever;
4. denial, revocation or suspension of a pilot and/or maritime license and/or pilot commission by any local, state, or federal entity or jurisdiction whatsoever;
5. neglect of duty;
6. neglect of duty while piloting any vessel;
7. neglect of duty while performing services at VTC (Vessel Traffic Center) or other similar governmental facility;
8. conduct unbecoming a pilot while on-duty;
9. conduct unbecoming a pilot while off-duty;
10. failure to remain a qualified and registered voter of the state of Louisiana;
11. not successfully passing any physical examination as mandated by the U.S. Coast Guard;
12. any violation of the board's drug and alcohol rules and regulations;
13. refusal to submit to any and all scientific testing for drugs or alcohol ordered by the association and/or board as promulgated by the board's rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§419. Affirmative Duty to Report

A. There is an affirmative duty of apprentices, candidates, and pilots to immediately and timely provide proof of any and all test results and examinations to the board, including but not limited to medical, licensure, physical, drug, substance abuse or alcohol, where such results or examinations are related to safe pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§421. False Claims

A. This board shall be vested with the right and ability to sanction any person who levies a knowingly false claim against this board, any board member or staff hereof, or any member of the NOBRA Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§423. Absolute Insurer

A. A NOBRA pilot is the absolute insurer of his or her own state of mind, physical abilities, and overall well-being.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§425. Adoption of Navigational Rules

A. The board shall use a standard of that which adheres to common, local practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§427. Pilot's Duty to Remain on Board Ship

A. A NOBRA pilot shall remain on board the ship until properly relieved and/or has completed one's pilot assignment and/or is released by the ship master or his representative/agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§429. Pilot's Duty of Remain on Duty at the Vessel Traffic Center (VTC)

A. A NOBRA pilot shall remain on site and on duty at VTC (or similar facility) until properly relieved and/or released by the VTC watch supervisor or representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§431. Establishing Standards for Recency of Service on the River

A. In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the board hereby gives notice of intent to promulgate Rules regarding standards of mandated pilotage time on the Mississippi River and the necessity to obtain and maintain a current and valid Louisiana state pilot license and commission, together with other violations and penalties associated therewith.

B. In accordance with state law and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the board proposes to adopt the following.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§433. Other Qualifications to Maintain as a NOBRA Pilot while Performing Pilotage Services on the Mississippi River; Grounds for Disqualification and Suspension of Pilots, Apprentices, and Candidates; Grounds to Recommend of Revocation of Pilot Commission

A. All current NOBRA pilots, apprentices, and candidates shall always maintain each of the following:

1. a current and valid Louisiana voter's registration card as issued by the Louisiana Secretary of State, through the Office of the Registrar in the Parish where the NOBRA pilot, apprentice or candidate is domiciled as per Louisiana. A NOBRA pilot, apprentice or candidate may establishing residency elsewhere, as per law.

B. All current NOBRA pilots, apprentices, and candidates shall always:

1. have successfully passed a physical examination which, in the judgment of the board, includes, but is not limited to those standards, such as vision, color perception

and hearing tests, necessary to perform duties as a pilot, together with those requirements as mandated by the United States Coast Guard;

2. cooperate fully with this board's testing procedures;
3. cooperate fully with this board's investigations of

any matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§435. Pilot's Duty to Exhibit Identification

A. Whoever offers to pilot a ship or other vessel shall, if required, exhibit to the commander thereof his identification card as a NOBRA pilot, attested to by the chairman of the board of examiners; and if he refuses or neglects to do so, he shall not be entitled to any remuneration for any service he may render.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§437. Administrative Policy and Application

A. The purpose of these rules and regulations is to ensure compliance by the board with the provisions of the Louisiana Public Meeting Law and the records maintenance requirements of the provisions of R.S. 49:950 et seq. and R.S. 42:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§439. Meetings of Examiners

A. All meetings and notices thereof of the board shall be conducted in accordance with the Open Meetings Law (R.S. 42:1 et seq.). The board shall meet at least once each quarter and meetings shall be called in accordance with R.S. 42:7 or as per law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§441. Record Keeping

A. The board of examiners shall maintain records and conduct its hearings in accordance with R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§443. Reinstatement of Commission Pilot Privileges as Relates to Inactivity of Pilot Services; Re-Appointment of Pilot; Testing and Examination of Apprentices and Active Pilots; Establishing Standards of Pilotage

A. These Sections shall apply to all NOBRA commissioned pilots, together with former commissioned pilots, apprentices or applicants who have not piloted a vessel and/or been assigned to a turn or vessel as discussed hereinafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§445. Request for Appearance before Board

A. Any person who is subject to these rules and regulations shall apply, in writing, to this board to request an appearance for an administrative determination as to the status of such person for re-appointment or recommendation to pilot re-commissioning.

B. Such a request shall be placed on the board's agenda, as per law.

C. Such a request shall be heard as per law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§447. Applicability to Turns or Assignments

A. If an otherwise state-commissioned NOBRA pilot does not pilot or has not piloted a vessel or ship as assigned by the NOBRA Pilot Association during the normal course of dispatching of pilotage services for any period of six consecutive months, then before that pilot is eligible and authorized to pilot any such vessel along the NOBRA route, said pilot shall be required to successfully complete, to the exclusive and unilateral satisfaction of the board, each of the following non-exclusive list of particulars.

1. A minimum of five trips or turns along the NOBRA route from the general area of the Baton Rouge harbor (or within three miles of the Baton Rouge Interstate 10 Bridge over the Mississippi River at river mile 234 AHP and then along the meandering line of the Mississippi River) to the Algiers cut-off canal at Mississippi River mile 88 AHP.

2. Two trips of these five trips shall cover the entire NOBRA route between Baton Rouge and New Orleans. One trip shall be northbound. One trip shall be southbound.

3. Two trips of these five trips shall be at night.

B. Where there has been no pilotage or vessel assignments in excess of such six months, a NOBRA pilot shall be subject to and shall be required to successfully complete, to the exclusive and unilateral satisfaction of the board, a specially designed and planned program to reasonably re-orient such pilot to Mississippi River pilotage under the jurisdiction of this board.

C. These Sections shall not apply to any assignment or turn at the VTC (Vessel Traffic Center) and shall be excluded from these rules. Work performed at VTC shall not be considered as a turn or assignment for these purposes only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§449. Re-Orientation Period

A. Upon commencement of the re-orientation period, any pilot subject to these minimum requirements shall successfully complete all five trips and turns within 30 consecutive days. For good reason shown, and upon timely application by the pilot, additional time to complete these trips or turns may granted by the board. The board shall have the exclusive and unilateral discretion to grant or deny any extension of time.

B. Where there has been no pilotage or vessel assignments in excess of such six months, and before resumption of pilot assignments, a NOBRA pilot shall have conducted a thorough U.S. Coast Guard physical as per

Code of Federal Regulations (CFR) 10.709 and CFR 10.205, all as may be amended from time to time by the U.S. Coast Guard.

C. Where there has been no pilotage or vessel assignments in excess of such six months, a NOBRA pilot shall present for inspection and copying by the board a Form CG 719K/E (Rev. 7-01) or as may be amended from time to time by the U.S. Coast Guard.

D. Where there has been no pilotage or vessel assignments in excess of such six months, a NOBRA pilot shall produce to the board sufficient and verifiable documentation, to the exclusive discretion of the board, from any and all local, state, or federal governmental agencies to establish that said pilot is in good standing and is authorized to pilot such a vessel. Such documentation shall be reasonably determined by the board on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

§453. Investigations and Enforcement of Board Policies and Other Violations of Commission Rules and Regulations; Penalties Associated with Violations; Conducting Hearings Associated with any Complaint or Violation of Pilotage; Testing and Examination of Apprentices and Active Pilots; Establishing Standards of Pilotage

A. All complaints reported to the board shall be considered for investigation. A complaint, under the provisions hereinafter, is defined as:

1. any written, signed complaint involving a pilot commissioned as per law; and/or
2. any other event involving a pilot commissioned herein, that, in the discretion of the board, justifies further investigation.

B. The board shall appoint an investigating officer to conduct a preliminary investigation of the complaint and report their findings to the board. In no event shall the investigating officer be an active member of the board.

C. If the investigating officer, following the preliminary investigation, is of the opinion that the conduct in question is not sufficient to justify further proceedings, he/she shall make a written report to the board, which, in its exclusive discretion, may accept or reject the recommendation and dismiss the complaint.

D. If after the preliminary investigation, the board is of the opinion that the complaint is sufficient to justify a full investigation, the board shall, if so required by law, notify the Office of the Governor and request authority from the governor to conduct a full investigation and/or administrative hearing regarding the complaint. Following receipt of authority from the governor, if so required by law, the board shall authorize its investigating officer to conduct a full investigation of the complaint.

E. If the investigating officer, following the full investigation, is of the opinion that the conduct in question is not sufficient to justify further proceedings, he/she shall make a written report to the board, which, in its exclusive discretion, may accept or reject the recommendation and dismiss the complaint.

F. Following the full investigation, if the board is of the opinion that an administrative hearing is required, the board

shall give notice to the pilot, by registered mail or personal service, of the complaint or allegations made against him/her and offer the pilot an opportunity to show compliance with the laws or regulations allegedly violated. Said notice shall be issued pursuant to R.S. 49:955(B) and shall include:

1. a statement of the time, place, and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is being held;
3. a reference to the particular sections of the statutes and rules involved;
4. a short and plain statement of the matters asserted.

G. The board may make informal disposition of any investigation or adjudication/hearing by means of stipulation, agreed settlement, consent order or default. If required by law, approval of such informal disposition must be sought from the Office of the Governor before the informal disposition may be deemed final.

H. Any matter set for hearing shall be prosecuted by an independent prosecutor appointed by the board. The independent prosecutor may, in the discretion of the board, be the same party who acted as investigating officer. In no event shall the independent prosecutor be an active member of the board. The independent prosecutor may conduct further investigation and shall prepare and present the matter to the board in such manner as he/she may deem appropriate.

I. Any pilot may be represented in any adjudication/hearing before the board by an attorney at law duly admitted to practice in the state of Louisiana. Following receipt of proper notice of such representation, all further notices, subpoenas or other processes related to the proceedings shall be served on the pilot through his/her designated counsel of record.

J. Any pre-hearing motion shall be referred for decision to the board, who in its discretion, may rule on the motion prior to the hearing date or may defer the matter until the hearing date.

K. All investigations and hearings undertaken as authorized herein above, shall be conducted pursuant to the Administrative Procedure Act, R.S. 49:950 et seq. If any specific provision of this section in any way conflicts with the more general rule of the Administrative Procedure Act, the more specific rule of this section shall govern.

L. The board shall docket and schedule the hearing before the board not less than 10 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent/pilot pursuant to a showing of proper grounds.

M. Within 30 days of service of the administrative notice, or such longer time as the board may permit, the respondent/pilot shall provide a written answer the administrative notice, admitting or denying each of the separate allegations of fact and law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that the respondent/pilot does not timely file a response to the administrative notice, all matters asserted therein shall be deemed admitted.

N. All motions or other papers permitted or required to be filed with the board unless otherwise notified in writing.

O. Motions for continuances of hearings, for dismissals of the proceeding and all other pre-hearing motions shall be filed not later than 15 days prior to the hearing. The opposing party shall have seven to respond in opposition. Each pre-hearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion.

P. If an initial motion for continuance is not opposed, it may be granted by the presiding chairman of the board.

Q. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the chairman of the board, shall be referred for decision to the board member designated by the board as the presiding officer of the board designated with respect to the proceeding for ruling. The presiding officer, who shall be a member of the board designated as presiding officer by the board in each matter before the board, in his discretion, may refer any pre-hearing motion to the board for disposition, and any party aggrieved by the decision of a presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire board.

R. Upon request of any party and upon compliance with the requirements of this Section, any board member shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

S. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

T. In any case of adjudication noticed and docketed for hearing, counsel for respondent and independent prosecutor may agree, or the presiding officer may require, that a pre-hearing conference be held among such counsel, or together with the board's independent counsel appointed herein whereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

U. Following such pre-hearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a pre-hearing stipulation which should include:

1. a brief statement from the independent counsel as to what is expected to be shown from the evidence to be presented;
2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;
3. a list of the witnesses to be called by all parties, together with a brief general statement of the nature of the testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and

5. an estimate of the time required for the hearing.

V. Unless otherwise requested by the respondent/pilot, adjudication hearings, shall be conducted in closed session, unless otherwise expressly waived by the respondent/pilot, all as per law.

W. At the hearing, opportunity shall be afforded to all parties to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative notice.

X. Unless stipulation is made between the parties and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings. The cost of the stenographer shall be initially be at the expense of the board; however, and in the event that the respondent/pilot is otherwise suspended, fined, or reprimanded then the respondent/pilot shall be liable for and may be assessed and taxed for all costs. If the respondent/pilot is referred or recommended to the Office of the Governor for action, then the respondent/pilot shall be liable for and may be assessed and taxed for all costs. Any and all witness, expert witness or hearing-related costs may likewise be assessed and taxed as to the respondent/pilot. Witness fees (expert or otherwise) and related hearing costs caused by the respondent/pilot shall be his/her responsibility; in no way whatsoever shall the board be liable for nor responsible for costs or fees caused by the respondent/pilot.

Y. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in or out of executive session, all as per law. At any such hearing, the board may be assisted by legal counsel, who is independent of the independent prosecutor and who has not participated in the investigation or prosecution of the case.

Z. The record in a case of adjudication shall include, but is not limited to:

1. the administrative notice, notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except those so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;
6. the decision, opinion, report or other disposition of the case made by the board;
7. findings of fact;
8. conclusions of law.

AA.1. In an adjudication hearing, the board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the

conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written or recorded form.

2. All evidence, including records and documents in the possession of the board which the parties desire the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

BB.1. The final decision of the board in an adjudication proceeding shall be in writing and shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a copy thereof shall promptly be served upon all parties of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative notices.

CC.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed hereinabove and shall set forth the grounds upon which such motion is based, as provided herein.

2. The board may grant rehearing, reopening, or reconsideration if it is shown that:

a. the decision is clearly contrary to the law and the evidence;

b. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

c. other issues not previously considered ought to be examined in order to properly dispose of the matter; or

d. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

DD. As per law and as may be levied and as may be recommended, the board shall have the specific authority to recommend imposition of a fine on any pilot, to recommend

reprimand or removal from duty any pilot, or to recommend to the governor that the commission of any pilot be suspended or revoked if a pilot is found in violation of any rule or regulation adopted by the board of examiners.

EE. The authority established in these rules is in addition to and in no way limits the authority of the board to seek to remove a pilot from duty pursuant to the provisions of R.S. 34:1041 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 29:

Interested persons may submit written comments no later than 4:30 p.m. on March 12, 2003 to Robert A. Barnett, Executive Director, 3900 River Road, Suite 5, Jefferson, LA 70121.

Henry G. Shows, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Standards of Conduct and Investigations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no cost to these boards nor the state of Louisiana for this Rule change and implementation. All expenses, if any, are paid by the NOBRA Pilot Association, as per law. All funds paid by the NOBRA Pilot Association are generated by pilot fees paid by shipping concerns and industry members.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule change may result in an increase in costs for those river pilots who must retain an attorney for representation in a disciplinary hearing for whomever violates any of these rules and regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any river pilot who violates these rules and regulations may be subject to fines, reprimands and/or commission revocation.

Robert A. Barnett
Executive Director
0302#020

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

Motor Carrier Safety and Hazardous Materials
(LAC 33:V.10303)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, proposes to amend LAC 33:V.10303 pertaining to Motor Carrier Safety and Hazardous Material requirements to restate the revision date of the previously adopted parts of

49 CFR and to update the titles of the various parts as authorized by R.S. 32:1501 et seq.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections Hazardous Materials

§10303. Federal Motor Carrier Safety and Hazardous Materials

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of October 1, 2002 and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

Hazardous Material Regulations	
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	Shippers General Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings
Motor Carrier Safety Regulations	
Part 382	Controlled Substances and Alcohol Use and Testing
Part 383	Commercial Driver's License Standards; Requirements and Penalties
Part 385	Safety Fitness Procedures
Part 390	Federal Motor Carrier Safety Regulations; General
Part 391	Qualifications of Drivers
Part 392	Driving of Commercial Motor Vehicles
Part 393	Parts and Accessories Necessary for Safe Operation
Part 395	Hours of Service of Drivers
Part 396	Inspection, Repair, and Maintenance
Part 397	Transportation of Hazardous Materials; Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 10:58 (January 1994), LR 24:956 (May 1998), LR 24:2321 (December 1998), LR 29:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These Rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Mailstop #B-4, Baton Rouge, LA 70896. Written comments will be accepted through March 15, 2003.

Chris Keaton
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Motor Carrier Safety and Hazardous Materials**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs incurred, nor savings realized, as a result of the adoption of these Rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue as a result of these Rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefits to any person or group, as a result of these Rules. The proposed Rule changes simply indicate the version, by revision date, of the federal regulations previously adopted by reference.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These Rules should not affect competition or employment.

Christopher Keaton
Undersecretary
0302#047

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Natural Resources: Severance Tax
Definition of Payout
(LAC 61:I.2903)

Under the authority of R.S. 47:633, 47:648.3, and 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.2903.A to clarify the definition of *payout*.

Revised Statute 47:633(7)(c)(iii), 47:633(9)(d)(v), and 47:648.3 allow severance tax suspensions for horizontal, deep, and new discovery wells. The suspensions are limited to 24 months or until payout of the well cost, whichever comes first. Payout occurs when gross revenue from the well less royalties and operating costs directly attributable to the well equal the well cost as approved by the Office of Conservation. Because payout of the well cost triggers the end of the severance tax suspension, the computation should be uniform for all taxpayers. This proposed amendment

clarifies that operating costs do not include any costs that were included in the well cost approved by the Office of Conservation.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 29. Natural Resources: Severance Tax

§2903. Severance Taxes on Oil; Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. Definitions

* * *

Payout—the payout of the well cost for a horizontal well as referred to in R.S. 47:633(7)(c)(iii), a deep well as referred to in R.S. 47:633(9)(d)(v), and a new discovery well as referred to in R.S. 47:648.3 occurs when gross revenue from the well, less royalties and operating costs directly attributable to the well, equals the well cost as approved by the Office of Conservation. Operating costs are limited to those costs directly attributable to the operation of the exempt well, such as direct materials, supplies, fuel, direct labor, contract labor or services, repairs, maintenance, property taxes, insurance, depreciation, and any other costs that can be directly attributed to the operation of the well. Operating costs do not include any costs that were included in the well cost approved by the Office of Conservation.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633, 47:648.3, and 47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue, Severance Tax Division, August 1974, amended and promulgated LR 3:499 (December 1977), amended LR 20:1129 (October 1994), repromulgated LR 20:1299 (November 1994), amended by the Department of Revenue, Severance Tax Division, LR 23:1167 (September 1997), LR 24:2321 (December 1998), amended by the Department of Revenue, Policy Services Division, LR 29:

Interested persons may submit data, views, or arguments, in writing to Jennifer Davis, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, March 26, 2003. A public hearing will be held on Thursday, March 27, 2003 at 10 a.m. in the River Room 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Natural Resources: Severance Tax
Definition of Payout**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed amendment, which clarifies the definition of payout, will have no implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of the proposed amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed amendment should have no impact on the costs or economic benefits of directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment should have no effect on competition or employment.

Cynthia Bridges
Secretary
0302#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Refugee Resettlement Program
(LAC 67:V.Chapter 5)

By the authority granted to the secretary of the Department of Social Services in R.S. 36:474(3) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Community Services (DSS/OCS), hereby provides notice of its intent to establish regulations governing the Refugee Resettlement Program which was formerly administered by the Department of Social Services, Office of Family Support. Additionally, the DSS/OCS proposes to implement policy developed in response to changes in 45 CFR 400 revised October 1, 2000, and specifically, to the change in 45 CFR 400.56-63 regarding services to public/private Refugee Cash Assistance (RCA) recipients.

The Refugee Resettlement Program is funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement. The program includes three components: Refugee Cash Assistance, Refugee Medical Assistance and Refugee Social Services. The DSS/OCS will deliver the Refugee Cash Assistance and Social Services components. The Department of Social Services, Office of Family Support and the Department of Health and Hospitals shall deliver Refugee Medical Assistance via Memorandum of Understanding with DSS/OCS and each other.

**Title 67
SOCIAL SERVICES**

**Part V. Office of Community Services
Subpart 2. Community Services**

**Chapter 5. Refugee Resettlement Program
Subchapter A. Goals and Services
§501. Authority**

A. The state of Louisiana administers the Refugee Resettlement Program through the Department of Social Services, Office of Community Services in accordance with

federal regulations including 45 CFR 400. The Office of Community Services is responsible for the administration and delivery of services through direct provision, memoranda of understanding with other state agencies, and, purchase of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

§503. Program Goals

A. The Refugee Resettlement Program is designed to effectively resettle refugees and to promote economic self-sufficiency for refugees within the shortest possible time after their entrance into the state. Those considered for receipt of the Refugee Resettlement Program services and benefits include individuals with the following Immigration and Naturalization Services statuses:

1. refugees;
2. asylees;
3. Cuban and Haitian entrants;
4. certain Amerasians from Vietnam; and
5. victims of a severe form of trafficking who receive certification from the Office of Refugee Resettlement.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

§505. Program Services

A. Services provided in the Refugee Resettlement Program are defined in the Louisiana State Plans for the Administration of the Refugee Resettlement Program and the Public Private Partnership/Refugee Cash Assistance Program which comply with 45 CFR 400 as amended. There are three components of the Refugee Resettlement Program. They are: Refugee Cash Assistance, Refugee Medical Assistance and Refugee Social Services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

Subchapter B. Refugee Cash Assistance

§507. Application, Eligibility, and Incentive Bonuses for Refugee Cash Assistance

A. Application. The Office of Community Services will administer a Public Private Partnership/Refugee Cash Assistance program by contracting with local private resettlement agencies to provide direct cash assistance to eligible refugee clients. Any individual wishing to apply for benefits may do so. A determination of eligibility must be made within 30 days of the date of application.

B. Eligibility

1. General eligibility requirements for refugee cash assistance is limited to those who:
 - a. are new arrivals to the United States whose residence in the country is within the Refugee Cash Assistance (RCA) eligibility period determined by the Office of Refugee Resettlement Director;
 - b. are asylees recently granted asylum whose time since the date being granted asylum is within the RCA eligibility period determined by the Office of Refugee Resettlement Director;
 - c. are ineligible for TANF and SSI;

d. meet immigration status and identification requirements in Subpart D of 45 CFR Part 400, or who are the dependent children of, and part of the same family unit as, individuals who meet the requirements, subject to the limitation in Sec. 400.208 with respect to non-refugee children;

e. are not full-time students in institutions of higher education, as defined by the Office of Refugee Resettlement Director;

f. are residents of Louisiana in the jurisdiction of the local resettlement agency handling the application; and,

g. meet the following financial eligibility requirements.

2. Financial eligibility requirements are as follows.

a. The family unit will have gross income at or below 200 percent of the federal poverty level.

b. There will be a total earned income disregard for the first four months of their time eligibility period.

c. There will be a \$200 earned income disregard for the fifth month through the last month of their eligibility period.

3. Incentive Bonuses

a. Incentive bonuses will be available to eligible individuals up to a capped maximum of the standard payment amount times the months of the established eligibility period and are as follows:

i. a \$200 one time bonus per eligible individual for accepting a full time job and staying on that job for at least 10 working days (\$100 bonus for part time employment);

ii. a \$200 one time bonus per eligible individual for remaining employed on the ninetieth day after being placed in a job and the 90 day retention date must be within the period of eligibility;

iii. an employable eligible individual may have the local resettlement agency make payment toward the cost of driving lessons, up to \$200, to an accredited driving instruction school, if driving lessons are needed by the individual, the individual is eligible to apply for a valid driver's license, and learning to drive is part of the employability plan for the individual.

C. Participants receiving RCA will also be eligible to receive employment, language training, and related support services under the Refugee Social Services Program.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

§509. Amount of Refugee Cash Assistance

A. The cash assistance standard payment amounts per month for the period of eligibility are as follows.

Size of Family Unit	Payment Amount
1	\$260
2	\$335
3	\$400
4	\$455
Incremental	\$50

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

§511. Mandatory Participation in Employment Services

A. All non-exempt eligible members of a family unit must participate in an employment plan developed by the local resettlement agency in conjunction with the non-exempt eligible member in order to be eligible for cash assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

Subchapter C. Refugee Medical Assistance

§513. Eligibility and Furnishing of Services for Refugee Medical Assistance

A. The Office of Community Services will administer Refugee Medical Assistance (RMA) in accordance with program regulations for Title XIX of the Social Security Act as reflected in the Louisiana approved Medicaid and SCHIP State Plans. Eligibility requirements for RMA will be in accordance with 45 CFR 400.94, 400.100-104. If a refugee who is receiving RMA receives earnings from employment, the earnings shall not affect the refugee's continued medical assistance eligibility. RMA services will be delivered by the Office of Family Support (OFS) and the Department of Health and Hospitals (DHH) through Memoranda of Understanding. The OFS will conduct the eligibility determination and the DHH will administer the provision of medical services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

Subchapter D. Refugee Social Services

§515. Application, Eligibility, and Furnishing of Refugee Social Services

A. Applications for services must be completed for all individuals and households who are referred for services or request services under this program prior to the delivery of services. Application forms should be completed as soon as possible after the initial request or referral for services but no later than 30 calendar days after the request or referral.

B. To be eligible for social services, an applicant must provide proof in the form of documentation issued by the Immigration and Naturalization Service of one of the following statuses under the Immigration and Nationality Act as a condition of eligibility:

1. paroled as a refugee or asylee under Section 212(d)(5);
2. admitted as a refugee under Section 207;
3. granted asylum under Section 208;
4. admitted as a Cuban or Haitian Entrant in accordance with requirements in 45 CFR part 401;
5. admitted as an Amerasian from Vietnam pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 as contained in Section 101(e) of Public Law 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in Title II of the Foreign Operation, Export Financing, and Related program Appropriations Acts, 1989, (Public Law 100-461 as amended).

C. Recipients of employment services and language training services must be 16 years of age or older and not full-time students in elementary or secondary school, except that such a student may be provided services in order to obtain part-time or temporary (e.g. summer) employment while a student or full-time permanent employment upon completion of schooling.

D. Services to be provided include:

1. employment services which are defined as the provision of assistance for individuals to obtain and maintain suitable paid employment;

2. English as a Second Language(ESL) which is defined as the provision of formal or informal English instruction with emphasis on survival and/or vocational English or assistance in obtaining such from other established English programs;

3. Social Adjustment Services which are defined as the provision of therapeutic, educational, cultural and social enrichment activities to promote acculturation and inter/intra personal functioning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 29:

A public hearing on the proposed Rule will be held on Thursday, March 27, 2003 at the Catholic Community Services Conference Room, 1900 South Acadian Thruway, Baton Rouge, LA, beginning at 2 p.m.

All interested persons are invited to submit written comments on the proposed regulations to Steve Thibodeaux, Office of Community Services, P.O. Box 57149, New Orleans, LA 70157. Such written comments must be received by 4:30 p.m. on March 28, 2003.

Copies of the State Plan for the Administration of the Refugee Resettlement Program and Public Private Partnership/Refugee Cash Assistance Program may be obtained by calling to request copies and then picking them up at the OCS State Office, Contracts and Eligibility Services Section, 333 Laurel Street, Room 810, Baton Rouge (225) 342-2763 or at the OCS Orleans Regional Office, Contracts and Eligibility Services Section, 1010 Common Street, Room 1419, New Orleans (504) 568-8958.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Refugee Resettlement Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost of implementing the revised Public Private Partnership/Refugee Cash Assistance Program will be cost neutral to the state of Louisiana. The amount of funding for the refugee cash assistance program is expected to increase as the Public Private Partnership/Refugee Cash Assistance program has increased benefits for participants and incorporates case management services as part of the program, but those costs will be paid from federal funds for which the state will be fully reimbursed. The Refugee Resettlement Program is 100 percent federally funded and receives grants from the United States Department of Health and Human Services, Administration for

Children and Families (DHHS/ACF), Office of Refugee Resettlement for Cash, Medical, and Administrative expenses, for Refugee Social Services, and for special discretionary programs. The state was encouraged by the federal Office of Refugee Resettlement to implement the program indicating that services under this program would be delivered in a more effective manner.

There are no costs or saving to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule includes the transfer of federal funding from the Department of Social Services, Office of Family Support (DSS/OFS) to the Department of Social Services, Office of Community Services (DSS/OCS) as DSS/OCS will assume administration for refugee cash assistance. Refugee cash assistance was previously administered by the DSS/OFS.

There is no effect on revenue collection of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Recipient refugee families will receive direct economic benefits in the form of cash assistance and in the potential of increased earnings. The nongovernmental refugee resettlement agencies will enter into agreements that will provide funding for the provision of the services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule should improve the employment potential for refugees and improve the quality of employees for businesses that hire refugees. The proposed Rule should have no effect on competition.

Carmen D. Weisner
Assistant Secretary
0302#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Refugee Cash Assistance (RCA) Program
(LAC 67:III.Chapters 35 and 37)**

The Department of Social Services, Office of Family Support, proposes to repeal Title 67, Part III, Chapters 35 and 37, the Refugee Cash Assistance Program.

The Refugee Cash Assistance (RCA) Program was adopted by the Department of Social Services in December 1991 and has been administered by the Office of Family Support since its implementation. The program's purpose is to assist refugees who do not meet the eligibility requirements for Family Independence Temporary Assistance Program, Supplemental Security Income, and Medicaid programs by providing them with cash assistance payments for up to eight months after the refugee's arrival in the United States.

Pursuant to options offered to states by the United States Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement through regulations at 45 CFR Part 400, the agency has opted to provide services for RCA through a public/private partnership whereby the state will contract with refugee resettlement agencies that will provide refugee cash assistance benefits. The program, Public Private Partnership/Refugee Cash Assistance Program, will be administered through contracts with various resettlement

agencies. These local resettlement agencies are current providers for the Refugee Social Services Program which is administered by the Office of Community Services (OCS). Therefore, in order to allow the agency responsible for the initial resettlement of refugees to directly handle their application for cash assistance benefits, administration of the RCA Program will be transferred to OCS. OCS has promulgated rules to establish regulations governing the program under Title 67, Part V, of the Louisiana Administrative Code effective January 1, 2003.

Repeal of Part III, Chapters 35 and 37 was effected January 1, 2003 by a Declaration of Emergency which was published in the January 2003 issue of the *Louisiana Register*.

**Title 67
SOCIAL SERVICES**

**Part III. Office of Family Support
Subpart 7. Refugee Cash Assistance**

Chapter 35. Administration

§3501. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with applicable sections of 45 CFR.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), repealed LR 29:

Chapter 37. Application, Eligibility and Furnishing Assistance

Subchapter A. Coverage and Conditions of Eligibility

§3701. Eligibility Determination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400(E), R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), repealed LR 29:

§3703. Eligibility Periods

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.202.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:954 (October 1991), LR 18:22 (January 1992), repealed LR 29:

§3704. Application Time Limit and Initial Payment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), repealed LR 29:

§3705. Coverage and Conditions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.62(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:401 (May 1984), repealed by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

§3707. Resources

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

§3708. Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

§3709. Ineligibility Based on Lump Sum Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

§3710. Earned Income Deductions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61 and 233.20(a)(11).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

Family Impact Statement

This Rule will have no impact on the stability and functioning of the family or on parental rights and will have no impact on the budget of the affected family as the program will continue under the administration of the Office of Community Services.

Interested persons may submit written comments by March 31, 2003 to Ann S. Williamson, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-9065. She is the responding authority to inquiries regarding this proposed Rule.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Refugee Cash Assistance (RCA)
Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Based on the first four months of FY 02/03 spending, the proposed Rule which repeals the Refugee Cash Assistance Program will result in savings to the Office of Family Support of an estimated \$4,212 in federal funds. However, these monies will be transferred to the Office of Community Services for distribution to eligible refugees in the form of cash benefits. The program is funded through the United States Department of Health and Human Resources, Administration for Children and Families, Office of Refugee Resettlement. The only implementation cost for this Rule is an estimated \$160 for publishing the notice and final Rule. This cost is routinely included in the agency's annual budget.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Rule will increase revenue collections for the Office of Community Services (OCS) by an estimated \$4,212 (transferred from OFS) as the program will now be administered by OCS. The revenue collections of local governmental units will not be affected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The repeal of RCA by the Office of Family Support will not affect those refugees receiving cash benefits as they will

continue to be eligible as long as all other eligibility requirements are met. The Rule will not result in any costs to persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed Rule will have no impact on competition and employment.

Gwendolyn P. Hamilton
Secretary
0302#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

TANF Initiatives

(LAC 67:III.5501, 5503, 5505, 5513, 5515, 5517 and 5519)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, proposes to repeal LAC 67:III, Subpart 15, Chapter 55, §§5503, 5515, 5517, and 5519 and to amend §§5501, 5505, and 5513.

Pursuant to Act 13 of the 2002 Regular Session and Act 12 of the 2001 Regular Session of the Louisiana Legislature, the agency has established numerous programs known collectively as the TANF Initiatives with the intention of furthering the goals of the federal Temporary Assistance for Needy Families Block Grant. The agency has provided funding through Memoranda of Understanding and contracts to several state agencies and other entities for implementation and administration of these programs which provide services to families with minor children in order to meet one of the four TANF goals.

The agency is proposing the following changes in order to clarify the goals of some programs and to prevent the duplication of services between others. Section 5501, Starting Points Early Childhood Development Program and §5505, Nonpublic Schools Early Childhood Development Program are being amended to clarify the TANF goals being met by the services provided. Additionally, the agency proposes to repeal the following initiatives to avoid duplicating services: §5503 Emergency Energy Assistance, §5515 Job Skills Program, §5517 Project Metamorphosis, and §5519 Concordia Correctional Life Skills Pre-Release Program at the Concordia Parish Detention Facility. Section 5503, Emergency Energy Assistance, was replaced by §5557, Energy Assistance Program for Low-Income Families (published as a Final Rule in the November 2002 issue of the *Louisiana Register*). Sections 5515, 5517, and 5519 are administered by the Department of Public Safety and Corrections and became final with the publication of the Rule in the February 2002 issue of the *Louisiana Register*. The services provided by these programs are being combined and incorporated into §5507, Adult Education, Basic Skills Training, Job Skills Training and Retention Services Program. Section 5513, Project Return will be known as Post-Release Skills Program and will offer the same services as before, to released offenders who are parents of a minor child. The TANF goal that encourages the formation and maintenance of two-parent families will continue to be met by the services offered through this program.

Title 67
SOCIAL SERVICES

Part III. Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

**§5501. Starting Points Early Childhood Development
Program**

A. ...

B. These services meet the TANF goal of encouraging the formation and maintenance of two-parent families by providing at-risk families with quality early childhood education to 4-year-old children, as well as providing support to the parents in obtaining higher literacy levels, crisis intervention, and positive parenting skills resulting in greater financial and familial stability. Children placed in quality education programs at an early age are more likely to become contributing members of society by developing responsible behaviors and an interest in learning that will eventually lead to graduation. These services also meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing high quality pre-school programs for at-risk children which have been shown to result in more positive outcomes relative to academic achievement, resistance to substance abuse and other criminal activities, lower levels of teen pregnancy, and good mental health.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:2265 (December 2001), amended LR 29:

§5503. Emergency Energy Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002), repealed LR 29:

**§5505. Nonpublic School Early Childhood Development
Program**

A. ...

B. These services meet the TANF goals to encourage the formation and maintenance of two-parent families and to reduce the incidence of out-of-wedlock births by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:350 (February 2002), amended LR 29:

§5513. Post-Release Skills Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of

Public Safety and Corrections to fund transitional services to former offenders.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by reducing the rate of recidivism. This goal will be accomplished by providing nonmedical substance abuse treatment and counseling, GED and academic enhancement, training in conflict resolution and communication skills, job training, and job placement assistance.

C. Eligibility for services is limited to released offenders who are parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.
AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), amended LR 29:

§5515. Job Skills Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), repealed LR 29:

§5517. Project Metamorphosis

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), repealed LR 29:

**§5519. Concordia Correctional Life Skills Pre-Release
Program at the Concordia Parish Detention
Facility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), repealed LR 29:

Family Impact Statement

This Rule will have no impact on the stability and functioning of the family or on parental rights and will have no impact on the budget of the affected family as the services offered by the amended and repealed initiatives will remain the same.

All interested persons may submit written comments through March 27, 2003, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on March 27, 2003, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in

advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: TANF Initiatives**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no associated costs to state or local governmental units for repealing the TANF Initiatives at §§5503, 5515, 5517, and 5519 and amending the initiatives at §§5501, 5505, and 5513 except for the minimal cost of publishing rulemaking that is approximately \$240. There are no savings to state or local governmental units.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will have no impact on revenue collections of state or local governmental units.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no immediate cost or economic benefit to any persons or non-governmental groups. However, the TANF Initiative Programs have a long-term goal of improving the economic situations of the targeted families.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0302#052

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

House of Representatives Committee on Administration of Criminal Justice

Video Draw Poker Code of Conduct of Licensees (LAC 42:XI.2417)

In accordance with R.S. 49:968, the oversight subcommittee of the Administration of Criminal Justice Committee met on January 24, 2003, in House Committee Room 6 at 10 a.m. for the purpose of conducting legislative oversight on a Rule proposed by the Louisiana Gaming Control Board and published as a Notice of Intent in the *Louisiana Register* on September 20, 2002. This Rule prohibits a licensee, owner or employee of a licensed establishment from playing any video draw poker device operated under authority of the licensee's video draw poker license.

Chairman Daniel R. Martiny presided over the oversight subcommittee meeting, members present were: Representatives Bruce, Cazayoux, Devillier, Farrar, Heaton, Morrell, Romero, and Wooton. A quorum of the oversight subcommittee being present, the subcommittee found the Rule unacceptable with objection based upon the following.

1. With respect to LAC 42:XI.2417.B.6.a, members of the oversight subcommittee observed that the adoption of the Rule could create an impression to the public that rather than being devices which could not be tampered with and have a random award of credits the devices could be tampered with and the awarding of credits determined in advance. Members of the subcommittee observed that public confidence that the Rule was designed to address could be undermined by the adoption of the Rule. In addition, the oversight subcommittee questioned the effectiveness and enforceability of the Rule.

2. With respect to LAC 42:XI.2417.B.6.b, members of the oversight subcommittee observed that the exception for certified technicians performing service and/or repairing video draw poker devices, appeared to be broader than intended and could create an exception for any person who was a certified technician. The wording of this portion of the Rule was questioned.

Daniel R. Martiny
Chairman

0302#014

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 9th, 2003, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, Louisiana. The deadline for sending the application and fee is as follows.

New Candidates:	February 21, 2003
Re-Take Candidates:	March 7, 2003
Reciprocity Candidates:	May 2, 2003

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, P.O. Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to February 21, 2003. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0302#018

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given April 28-May 2, 2003, 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is March 14, 2003. No applications will be accepted after March 14, 2003.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to March 14, 2003. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0302#019

POTPOURRI

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Boll Weevil Eradication Commission

Boll Weevil Eradication Adjudicatory Hearing Establishment of 2003 Assessment

The Boll Weevil Eradication Commission will hold an adjudicatory hearing beginning at 10 a.m., March 20, 2003 at the Louisiana Department of Agriculture and Forestry, First Floor Auditorium, located at 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of the assessments levied upon cotton producers for each acre of cotton planted for the 2003 crop year pursuant to R.S. 3:1613 and LAC 7:XV.321. Said assessment shall not exceed \$10 per acre of cotton planted for 2003 in the Red River Eradication Zone and \$15 per acre of cotton planted for 2003 in the Louisiana Eradication Zone.

All interested persons are invited to attend and will be afforded an opportunity to participate in the adjudicatory hearing. Written comments will be accepted if received prior to March 20, 2003, P.O. Box 3596, Baton Rouge, LA 70821-3596.

Dan P. Logan, Jr.
Chairman

0302#025

POTPOURRI

Department of Agriculture and Forestry Office of Animal Health Services Livestock Sanitary Board

Imposition of Quarantine on Out-of-State Poultry and Other Avian Species

In accordance with the provisions of R.S. 3:2094, R.S. 3:2095, and R.S. 3:2097 the Louisiana State Livestock Sanitary Board hereby declares and imposes the following quarantine.

I. Facts Supporting Quarantine

An outbreak of Exotic Newcastle Disease, ("END"), has occurred in regions of southern California and has also been confirmed in portions of Nevada and Arizona. END is a highly contagious and highly fatal disease of poultry and other avian species. If introduced into Louisiana, END could have devastating and catastrophic effects on the state's poultry industry as well as severely affecting other avian populations. Louisiana's poultry and avian industries have a gross farm value of over \$493,000,000.

For these reasons END presents an imminent peril to the public health, safety and welfare, as well as an imminent peril to Louisiana's livestock. As a result of this imminent peril, the Louisiana State Livestock Sanitary Board hereby exercises its plenary power to deal with all contagious and infectious diseases of animals by imposing this quarantine.

II. Objective of Quarantine

The objective of this quarantine is to prevent the spread of END into the State of Louisiana.

III Geographical Area of Quarantine

The geographical area of this quarantine is the entire state of Louisiana.

IV. Prohibitions

The following actions are hereby prohibited unless otherwise specifically authorized in writing by the Commissioner of Agriculture and Forestry, or his designee.

No person shall import into, or transport through, the state of Louisiana any poultry or other avian species, ("birds") or any poultry or avian products, ("products") that originated from or were moved from or through any geographical areas within the United States that are now, or in the future, quarantined for END by either the U.S. Department of Agriculture or the authorities of the respective states. The list of geographical areas subject to quarantine for END may be found on the Internet at www.aphis.usda.gov/lpa/issues.

V. Criteria for Release from Quarantine

Any person owning or transporting birds or products subject to this quarantine may apply for a waiver of the quarantine from the Commissioner of Agriculture and Forestry or his designee. Any person seeking a waiver must present the following documentation or information to the Commissioner of Agriculture and Forestry or his designee:

(1) a written request stating the type of the birds or product involved, the current location of the birds or products, the origin of the birds or products, the reason for moving the birds or products, the duration of time that the birds or products were in an END quarantined area and the reason they were in a quarantined area;

(2) certification from the state in which the birds or products are located that such birds or products are not from flocks or geographic areas quarantined for END;

(3) each bird or product is accompanied by a certificate of veterinary inspection issued within the preceding 30 days;

(4) a permit number is obtained from the Louisiana Office of Animal Health Services by the veterinarian issuing the certificate of veterinary inspection;

(5) any other information or documentation that the Commissioner of Agriculture and Forestry or his designee may require to make an informed decision regarding the request for a waiver.

The granting of a waiver, in whole or in part, shall be strictly discretionary with the Commissioner of Agriculture and Forestry or his designee. No waiver shall be deemed to have been granted unless in writing and signed by the Commissioner of Agriculture and Forestry or his designee.

VI. Time Limit

This quarantine shall remain in effect until rescinded by written order of this Board. Authorization from the Commissioner of Agriculture and Forestry or his designee(s) to do any of the prohibited acts, whether in whole or in part, shall not be construed as a rescission, or modification of this quarantine.

VII. Date of Adoption

This quarantine was adopted by the Louisiana State Livestock Sanitary Board and signed this 7th day of February 2003 at Baton Rouge, Louisiana.

Bob Odom
Chairman

0302#060

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Risk Evaluation/Corrective Action Program (RECAP)
(LAC 33:I.1305 and 1307)(OS044)

The comment period for the Risk Evaluation/Corrective Action Program (RECAP)C Revision 2 (LAC 33:I.1305 and 1307 and the RECAP document) (OS044) is being extended. The original comment period ended February 20, 2003. The new closing date for comments will be March 20, 2003. The Notice of Intent for the proposed Rule was published in the December 20, 2002, *Louisiana Register* on pages 2628-2629. A public hearing was held on January 24, 2003.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS044. Such comments must be received no later than March 20, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0389 or by e-mail to lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS044.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0302#066

POTPOURRI
Office of the Governor
Division of Administration
Office of Community Development

Public Hearing CFY 2004 Consolidated Annual Action Plan

As set forth in 24 CFR Part 91, the U. S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana the four state agencies participating in this consolidated planning process and the HUD-funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV/AIDS Program (Housing Opportunities for Persons with AIDS Program). A summary of the four programs follows.

The Small Cities Community Development Block Grant Program provides financial assistance to parishes of less than 200,000 persons and municipalities with a population of less than 50,000 in their efforts to provide a suitable living environment, decent housing, essential community facilities, and expanded economic opportunities. Eligible activities include community infrastructure systems such as water, sewer, and street improvements, community centers, housing rehabilitation, and economic development assistance in the form of grants and loans. Projects funded under this program must principally benefit persons of low and moderate income.

The objectives of the Home Investment Partnerships Program are: to expand the supply of decent and affordable housing for low and very low income persons, to stabilize the existing deteriorating owner occupied and rental housing stock through rehabilitation, to provide financial and technical assistance to recipients/subrecipients, and to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

The purpose of the Emergency Shelter Grants Program is to help local governments and community organizations to improve and expand shelter facilities serving homeless individuals and families, to meet the cost of operating

homeless shelters, to provide essential services, and to perform homeless prevention activities.

The Housing Opportunities for Persons with AIDS Program provides localities with the resources and incentives to devise and implement long-term comprehensive strategies for meeting the housing needs of persons with acquired immuno-deficiency syndrome (AIDS) or related diseases and their families.

The four agencies administering these programs are beginning to prepare the Consolidated Annual Action Plan for FY 2004. The Consolidated Annual Action Plan will include a one year action plan for the proposed distribution of funds received under the FY 2004 federal funding allocation for the aforementioned four HUD programs.

The State will hold a public hearing to obtain views on the housing and community development needs throughout the State; those comments will assist the agencies in developing the Consolidated Annual Action Plan for FY 2004. For those persons who are unable to attend the public hearing, written comments on the needs of the State may be submitted beginning February 26, 2003 and will be accepted until March 10, 2003. Written comments may be mailed to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095 or faxed to 225-342-1947.

The public hearing will be held on February 26, 2003 at 1:30 p.m. in the Iowa Room (Room 1-153) on the first floor of the Claiborne Building. The Claiborne Building is located at 1201 North Third Street in Baton Rouge. This facility is accessible to persons with physical disabilities. Non-English speaking persons and persons with other disabilities requiring special accommodations should contact the Office of Community Development at 225-342-7412 or at the mailing address or fax number in the preceding paragraph at least five working days prior to the hearing.

Mark C. Drennen
Commissioner

0302#061

POTPOURRI
Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Procell Oil & Gas	Benson	S	Pattison	1	181023
Procell Oil & Gas	Benson	S	Pattison	2	209704
Procell Oil & Gas	Spider	S	Hutchins	3	180618
S. M. Hammack	Longwood	S	Hammack G	3	216396
S. M. Hammack	Longwood	S	Hammack G	5	216502
S. M. Hammack	Longwood	S	Hammack G	6	216625
S. M. Hammack	Longwood	S	Hammack G	7	216626
S. M. Hammack	Longwood	S	Hammack G	9	216721
S. M. Hammack	Longwood	S	Hammack G	10	216733
S. M. Hammack	Longwood	S	Hammack G	11	216734
Kilroy Co. Of Texas, Inc.	Boston Bayou	L	Vermilion Parish School Board	1	117898
J & D Oil Co.	Caddo Pine Island	S	Hoss-Wynn	1	202507
J & D Oil Co.	Caddo Pine Island	S	Hoss-Wynn	2	202508
J & D Oil Co.	Caddo Pine Island	S	Hoss-Wynn	3	204680
J & D Oil Co.	Caddo Pine Island	S	Hoss-Wynn	4	206084
J & D Oil Co.	Caddo Pine Island	S	Hoss-Wynn	5	205990
Jack E. Stack, Jr.	South Monterey	M	Mil Sub; Cross-Burley	2	094635
R&R Resources Corp.	Port Barre	L	Futral B	1	022504
R&R Resources Corp.	Port Barre	L	Ptbr Futral RA SU; Futral B	3	025053
R&R Resources Corp.	Port Barre	L	Ptbr Futral RA SU; Futral B	5	028132
R&R Resources Corp.	Port Barre	L	Ptbr Futral RA SU; Futral C	1	039858
R&R Resources Corp.	Port Barre	L	Ptbr. Futral RA SU; S. D. Cochran	2	049710
R&R Resources Corp.	Port Barre	L	Ptbr. Futral RA SU; Futral B	6	151315
John W. Mecom Et Al	Wildcat	L	Verm. Bay Ld. & Cockrell, Jr. et al.	3	074019
Sahara Gas & Exploration, Inc.	Caddo Pine Island	S	Muslow	8	157402
Sahara Gas & Exploration, Inc.	Caddo Pine Island	2	Muslow	1	162385
Sahara Gas & Exploration, Inc.	Caddo Pine Island	2	Muslow	2	162386
Sahara Gas & Exploration, Inc.	Caddo Pine Island	2	Muslow	3	162387
Sahara Gas & Exploration, Inc.	Caddo Pine Island	2	Muslow	4	162388

James H. Welsh
Commissioner of Conservation

0302#041

POTPOURRI

**Department of Natural Resources
Office of Conservation**

**Proposed Rulemaking Pipeline Safety Definitions
for Master Meter Systems, Special Class Systems,
and School Systems**

The Louisiana Office of Conservation is requesting comments on the following draft proposed regulation that will establish pipeline safety responsibilities for master meter natural gas installations, Special Class Systems and School Systems.

It is the office's intent to incorporate the proposed regulation into the Office of Conservation Pipeline Safety regulations. This is a preliminary step in the rulemaking process. Official rulemaking will be initiated after review and consideration of the comments received on this advance notice.

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation Pipeline Safety

Subpart 1. General Provisions

Chapter 1. General

§125. Definitions

Master Meter System Ca pipeline system for distributing gas within, but not limited to, a definable area such as a mobile home park, housing project, apartment complex or

university, where the operator purchases metered gas from an outside source for resale through a gas pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

Special Class System Ca pipeline system for distributing gas to a federal, state or local government facility or a private facility performing a government function, where the operator receives or purchases gas from an outside source, and distributes the gas through a pipeline system to more than one outlet beyond the meter or regulator, which ultimate outlet may, but need not be, individually metered or charged a fee for the gas. Any exemption from pipeline safety regulation granted to master meter systems will apply to Special Class Systems.

School System Ca pipeline system for distributing natural gas to a public or private pre-kindergarten, kindergarten, elementary, secondary, or high school. Upon request for a revision of service by the school, or by the school system of which the school is a component, the local distribution company providing natural gas service to the school shall install a meter at the building wall of each building of the school that utilizes natural gas. The gas piping from the outlet of the meter to the inside of the building shall be installed above ground, and shall be maintained by the school in accordance with requirements of the Office of the State Fire Marshal. The outside piping that is upstream of the meter to the outlet of the meter shall be owned and maintained by the local distribution company in accordance with Minimum Pipeline Safety Regulations. The pipeline system of a school that does not request the revision of service described by this paragraph shall be deemed a Special Class System, and subject to the requirements of such system.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), amended LR 29:

All interested persons are encouraged to submit written comments on the draft proposal. Comments are due by March 7, 2003, and should be sent to Mariano G. Hinojosa, Pipeline Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; hand delivered to 617 North Third Street, Baton Rouge; sent to FAX number (225) 342-5529 or sent by email to marianoh@dnr.state.la.us.

If you have any questions regarding this document please contact Mariano G. Hinojosa at (225) 342-5519.

James H. Welsh
Commissioner of Conservation

0302#017

POTPOURRI

Department of Social Services Office of Community Services

Louisiana's Child and Family Services Plan and Annual Progress and Services Report

The Louisiana Department of Social Services, Office of Community Services (DSS/OCS) announces opportunities for public review of the Louisiana Child and Family Services Plan and the 2002 Annual Progress and Services Report. The Child and Family Services Plan is a planning document which outlines the goals and objectives/outcomes for the OCS for the time period of October 1, 1999 through September 30, 2004, with regard to the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Independent Living Initiative and Child Abuse Prevention and Treatment Act (CAPTA) funds. The Annual Progress and Service Report is the report on the achievement of goals and objectives/outcomes and amends any changes to the agency's plan in the provision of services. It is completed on an annual basis for each year of the Child and Family Services Plan. The 2002 Annual Progress and Service Report provides information on the achievement of goals and objectives for year three of the Child and Family Services Plan.

Louisiana, through the DSS/OCS, provides services which include Child Protection Investigations, Family Services, Foster Care, Adoption and the John H. Chafee Independence Program. The OCS will use allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, to provide child welfare services to prevent child abuse and neglect; to prevent foster care placement; to reunite families; to arrange adoptions; and to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, includes service to support families and prevent the need for foster care. The John H. Chafee Independent Living Program funds services to assist foster children 15 years old and older who are likely to remain in foster care until age 18. Former foster care recipients who are 18 to 21 years of age who have aged out of foster care are also eligible for services. The services include basic living skills training and education and employment initiatives. The Child Abuse Prevention and Treatment Act funding is used to complement and support the overall mission of OCS with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

We are encouraging public participation in the planning of services and the writing of this document. The Child and Family Services Plan and the Annual Progress and Services Report is available for public review at OCS parish and regional offices, Monday through Friday, from 8:30 a.m. to 4:00 p.m. Copies are available for review in the State Library located at 701 N. Fourth Street, Baton Rouge, LA and its repositories statewide.

Inquiries and comments on the plan may be submitted in writing to Joel McLain, P.O. Box 3318, Baton Rouge, LA 70821, on or before the close of business March 3, 2003. He is responsible for responding to all comments and/or inquiries.

A public hearing on the Child and Family Service Plan and the Annual Progress and Services Report is scheduled for Thursday, March 6, 2003, at 10 a.m. at the Office of Community Services, Commerce Building, 333 Laurel Street, Room 732, Baton Rouge, Louisiana. At the public hearing, all interested persons will have the opportunity to provide recommendations on the plan, orally or in writing.

Gwendolyn P. Hamilton
Secretary

0302#057

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