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Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Early Start Program
Award Amount (LAC 28:IV.1401)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This rulemaking will amend Section 1405 of LASFAC's Scholarship/Grants rules for the Early Start Program to provide a different award amount for students enrolled at Louisiana Technical College campuses beginning with the spring semester of 2011.

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective November 30, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG11127E)

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education

Scholarship and Grant Programs

Chapter 14. Early Start Program

§1401. General Provisions

A - D. . . .

E. Award Amount

1. The Early Start Program will pay postsecondary institutions, except for campuses of the Louisiana Technical College beginning with the spring semester of 2011, \$100 per college credit hour, not to exceed \$300 per course, for each course in which a student enrolled in a Louisiana public high school is eligible to enroll.

2. Beginning with the spring semester of 2011, the Early Start Program will pay \$50 per credit hour, not to exceed \$150 per course, for students enrolled at campuses of the Louisiana Technical College.

3. The award amount shall not be paid on behalf of students enrolled in nonpublic high schools or in home

school; however, beginning with the 2008-2009 academic year (college), the program allows participating eligible Louisiana postsecondary institutions to enroll eligible 11th and 12th grade Louisiana nonpublic high school and home school students at the same rate as the award amount that funding is provided for public high school students at these institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2609 (December 2007), amended LR 34:240 (February 2008), LR 35:231 (February 2009), LR 37:

George Badge Eldredge
General Counsel

1012#037

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—John R. Justice
Grant Program (LAC 28:IV.Chapter 20)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This rulemaking will create a new Chapter 20 in the commission's Scholarships/Grants rules to provide for the administration of the John R. Justice Student Grant Program by the commission in accordance with a federal grant from the U.S. Department of Justice. The John R. Justice Student Grant Program will provide for student loan repayment beginning with the 2010-11 academic year for qualified prosecutors and public defenders in the state with the least ability to pay.

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance to effectively administer the programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible candidates. LASFAC has determined that these Emergency Rules are necessary in order to prevent imminent financial peril to the welfare of the affected recipients.

This Declaration of Emergency is effective November 30, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG11126E)

Title 28
EDUCATION

Part IV. Student Financial Assistance—Higher Education

Scholarship and Grant Programs

Chapter 18. John R. Justice Student Grant Program

§2001. General Provisions

A. The John R. Justice Student Grant Program (JRJ Grant) is administered by the Louisiana Student Financial Assistance Commission (LASFAC) in accordance with a federal grant from the United States Department of Justice.

B. Description, History and Purpose. The JRJ Grant is administered in accordance with the federal John R. Justice Prosecutors and Defenders Incentive Act, 42 U.S.C.A. 3797cc-21, to encourage qualified lawyers to choose careers as public defenders and prosecutors and to continue in that service.

C. Effective Date. The JRJ Grant will be administered by LASFAC beginning with the 2010-2011 federal fiscal year.

D. Award Amount. Each calendar year, twelve prosecutors will receive awards of \$5,000 each. Each calendar year, six public defenders will receive awards of \$10,000 each. One public defender and two prosecutors will be selected for participation from each of the First, Second, Third, and Fifth Louisiana Circuit Court of Appeal Districts. Two public defenders and four prosecutors will be selected for participation from the Fourth Louisiana Circuit Court of Appeal.

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 37:

§2003. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Adjusted Gross Income (AGI)—gross income minus any deductions allowed under the federal income tax code (Title 26, United States Code).

Eligible Loan—an educational loan which is not paid in full and which was made under either the Federal Stafford Loan, Federal Graduate PLUS Loan, Federal Consolidation Loan, or Federal Perkins Loan program.

Federal Fiscal Year—October 1 to the following September 30.

Full Time—works at least 30 hours per week as a prosecutor or defense attorney.

Least Ability to Pay—have the lowest differential between AGI and 150 percent of the poverty level for a family of the lawyer's size among eligible applicants.

Licensed—holding a current license to practice law in the state of Louisiana.

Poverty Level—poverty guidelines as issued by the United States Department of Health and Human Services.

Prosecutor—a lawyer who is a full-time employee of the state or of a unit of local government (including tribal government) who prosecutes criminal or juvenile delinquency cases at the state or unit of local government level (including supervision, education, or training of other persons prosecuting such cases).

Public Defender—a lawyer who:

a. is a full-time employee of the state or with a unit of local government (including tribal government) who provides legal representation to indigent persons in criminal or juvenile delinquency cases including supervision, education, or training of other persons providing such representation; or

b. who is a full-time employee of a nonprofit organization operating under a contract with the state or with a unit of local government who devotes substantially all of the employee's full-time employment to providing legal representation to indigent persons in criminal or juvenile delinquency cases including supervision, education, or training of other persons providing such representation; or

c. who is employed as a full-time federal defense lawyer in a defender organization pursuant to 18 U.S.C.A.2006A(g) that provides legal representation to indigent persons in criminal or juvenile delinquency cases.

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 37:

§2005. Eligibility

A. To establish eligibility, a lawyer must:

1. be employed full time as a public defender or prosecutor for at least one year as of December 31 of the year preceding the award; and

2. not be in default on any educational loan;

3. complete and submit an application by the deadline;

4. have the least ability to pay his student loans;

5. authorize LOSFA to access records held by any third party that will verify information provided on the application.

B. Upon notice from LOSFA that he must do so, the applicant must provide:

1. information necessary to substantiate information included on the application, including, but not limited to, the following:

a. paycheck stubs for the two months immediately preceding the application date; and

b. federal tax returns for the most recent tax year; and

c. statements from all student loan holders evidencing the required monthly payments on his student loans;

2. a letter from his current employer verifying that the employer is an eligible employing entity under the John R. Justice Prosecutors and Defenders Incentive Act and recommending the applicant for participation in the program;

3. a completed John R. Justice Student Loan Repayment Program Service Agreement.

C. Qualified lawyers are required to apply for participation each year. Prior year recipients will be given priority for participation in the program in the second and third year of the service obligation, provided the recipient continues to meet the requirements of §2005.A.1-4 and B.

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 37:

§2007. Applicable Deadlines

A. Application Deadline

1. Applicants must complete and submit the on-line application each calendar year no later than the deadline published by LOSFA.

2. Applications received after the deadline will not be considered unless there are insufficient qualifying applications received by the deadline to make awards for all eighteen grants.

3. In the event there are insufficient applications to award 18 grants, a second deadline will be announced.

4. In the event 18 grants cannot be awarded after a second application deadline has passed, LOSFA shall inform LASFAC and distribute the available remaining funds as directed by LASFAC.

B. Documentation Deadline. An applicant from whom documentation is requested must provide the required documentation within 45 days from the request.

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 37:

§2009. Service Agreement

A. An applicant who has been selected for participation must complete a John R. Justice Student Loan Repayment Program Service Agreement prior to the disbursement of any funds to his student loan holder.

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 37:

§2011. Responsibilities of LOSFA

A. LOSFA shall:

1. evaluate documentation provided by applicants to substantiate the information provided on the application;

2. select program participants based on the documentation provided and the applicants' ability to pay student loans.;

3. maintain program service agreements;

4. pay program funds to the program participant's eligible student loan holder with instructions that the funds are to be used to reduce the outstanding principal amount due on the loan(s);

5. maintain a secure database of all information collected on recipients and former recipients, including name, address, social security number, name of the institution(s) to which funds were disbursed, and amounts disbursed.

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 37:

§2013. Responsibilities of LASFAC

A. LASFAC shall:

1. promulgate administrative rules in accordance with the Louisiana Administrative Procedure Act and in accordance with a federal grant from the United States Department of Justice to administer the John R. Justice Prosecutors and Defenders Incentive Act, 42 U.S.C.A. 3797cc-21 in Louisiana;

2. upon being informed by LOSFA that 18 grants cannot be awarded after a second application deadline has passed, establish a formula for apportionment of available remaining funds.

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 37:

George Badge Eldredge
General Counsel

1012#036

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Tax Commission**

Ad Valorem Taxation
(LAC 61:V.101, 703, 901, 907, 1103,
1305, 1307, 1503, 2503, 3101, and 3501)

The Louisiana Tax Commission, at its meetings on September 28, 2010, October 26, 2010 and November 16, 2010, exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2011. Cost indexes required to finalize these assessment tables are not available to this office until late October 2010. The effective date of this Emergency Rule is January 1, 2011.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - E.1. ...

F. Homestead Exemptions

1. General Provisions

a. - d. ...

e. No homestead exemption shall be granted on bond for deed property. However, any homestead exemption granted prior to June 20, 2003 on any property occupied upon the effective date of this Paragraph* by a buyer under a bond for deed contract shall remain valid as long as the circumstances giving rise to the exemption at the time the exemption was granted remains applicable (see Constitutional Article 7, §20.(A)(7)).

1.f. - 3.h. ...

G. Special Assessment Level

1. - 1.d....

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment,

exceeds \$65,891 for tax year 2011 (2012 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. – 9. . . .

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), LR 37:

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

| Table 703.A Floating Equipment—Motor Vessels | | | | |
|---|-------|-----------------------------------|--------------|----------------------|
| Cost Index (Average) | | Average Economic Life 12 Years | | |
| Year | Index | Effective Age | Percent Good | Composite Multiplier |
| 2010 | 0.993 | 1 | 94 | .93 |
| 2009 | 0.985 | 2 | 87 | .86 |
| 2008 | 1.013 | 3 | 80 | .81 |
| 2007 | 1.053 | 4 | 73 | .77 |
| 2006 | 1.111 | 5 | 66 | .73 |
| 2005 | 1.162 | 6 | 58 | .67 |
| 2004 | 1.250 | 7 | 50 | .63 |
| 2003 | 1.293 | 8 | 43 | .56 |
| 2002 | 1.315 | 9 | 36 | .47 |
| 2001 | 1.323 | 10 | 29 | .38 |
| 2000 | 1.334 | 11 | 24 | .32 |
| 1999 | 1.358 | 12 | 22 | .30 |
| 1998 | 1.362 | 13 | 20 | .27 |

B. Floating Equipment—Barges (Non-Motorized)

| Table 703.B Floating Equipment—Barges (Non-Motorized) | | | | |
|--|-------|-----------------------------------|--------------|----------------------|
| Cost Index (Average) | | Average Economic Life 20 Years | | |
| Year | Index | Effective Age | Percent Good | Composite Multiplier |
| 2010 | 0.993 | 1 | 97 | .96 |
| 2009 | 0.985 | 2 | 93 | .92 |
| 2008 | 1.013 | 3 | 90 | .91 |
| 2007 | 1.053 | 4 | 86 | .91 |
| 2006 | 1.111 | 5 | 82 | .91 |
| 2005 | 1.162 | 6 | 78 | .91 |
| 2004 | 1.250 | 7 | 74 | .90 |
| 2003 | 1.293 | 8 | 70 | .89 |
| 2002 | 1.315 | 9 | 65 | .85 |
| 2001 | 1.323 | 10 | 60 | .79 |
| 2000 | 1.334 | 11 | 55 | .73 |
| 1999 | 1.358 | 12 | 50 | .68 |
| 1998 | 1.362 | 13 | 45 | .61 |
| 1997 | 1.374 | 14 | 40 | .55 |
| 1996 | 1.396 | 15 | 35 | .49 |
| 1995 | 1.418 | 16 | 31 | .44 |
| 1994 | 1.469 | 17 | 27 | .40 |

| Table 703.B Floating Equipment—Barges (Non-Motorized) | | | | |
|--|-------|-----------------------------------|--------------|----------------------|
| Cost Index (Average) | | Average Economic Life 20 Years | | |
| Year | Index | Effective Age | Percent Good | Composite Multiplier |
| 1993 | 1.510 | 18 | 24 | .36 |
| 1992 | 1.539 | 19 | 22 | .34 |
| 1991 | 1.558 | 20 | 21 | .33 |
| 1990 | 1.589 | 21 | 20 | .32 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), LR 37:

Chapter 9. Oil and Gas Properties

§901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties

A. - B.3. . . .

C. Explanations

Inactive Wells—wells that are shut-in. Shut-in status becomes effective on the date the application for shut-in status is filed, consistent with the Louisiana Department of Conservation requirements.

Injection Wells—wells completed as single or wells reclassified by the Louisiana Department of Conservation after a conversion of another well. Wells are used for gas and water injection for production purposes, also used for disposal wells.

Multiple Completions—wells consisting of more than one producing zone. Deepest or primary completion may or may not be the base well number depending upon the Louisiana Department of Conservation permits and classification.

Production Depth—the depth from the surface to the active lower perforation in each producing zone in which the well is completed. As an example, a well completed in three separate zones is a triple completion and will have three different production depths as determined by the depth of the active lower perforation for each completion.

Single Completions—

a. well originally completed as a single;

b. well reclassified by the Louisiana Department of Conservation after a conversion of multiple completed well to a single producing zone.

Water Wells—wells used for production purposes only, both fresh and salt water supply.

D. - G. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:717 (March 2005), LR 33:492 (March 2007), LR 35:495 (March 2009), LR 36:773 (April 2010), LR 37:

§907. Valuation of Oil, Gas, and Other Wells

A. - A.7. ...

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

| Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana | | | | |
|--|--------------------------------|--------|---------------------------------------|--------|
| Producing Depths | Cost—New By Depth, Per Foot | | 15% of Cost—New By Depth, Per Foot | |
| | \$ Oil | \$ Gas | \$ Oil | \$ Gas |
| | 0-1,249 ft. | 35.22 | 123.24 | 5.28 |
| 1,250-2,499 ft. | 31.79 | 90.62 | 4.77 | 13.59 |
| 2,500-3,749 ft. | 24.99 | 60.01 | 3.75 | 9.00 |
| 3,750-4,999 ft. | 34.55 | 59.80 | 5.18 | 8.97 |
| 5,000-7,499 ft. | 40.64 | 58.37 | 6.10 | 8.76 |
| 7,500-9,999 ft. | 89.09 | 78.67 | 13.36 | 11.80 |
| 10,000-12,499 ft. | 259.81 | 95.44 | 38.97 | 14.32 |
| 12,500-14,999 ft. | N/A | 144.11 | N/A | 21.62 |
| 15,000-Deeper ft. | N/A | 164.33 | N/A | 24.65 |

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

| Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana | | | | |
|--|--------------------------------|--------|---------------------------------------|--------|
| Producing Depths | Cost—New By Depth, Per Foot | | 15% of Cost—New By Depth, Per Foot | |
| | \$ Oil | \$ Gas | \$ Oil | \$ Gas |
| | 0-1,249 ft. | 270.74 | 122.43 | 40.61 |
| 1,250-2,499 ft. | 93.49 | 203.50 | 14.02 | 30.53 |
| 2,500-3,749 ft. | 91.29 | 162.24 | 13.69 | 24.34 |
| 3,750-4,999 ft. | 80.48 | 129.79 | 12.07 | 19.47 |
| 5,000-7,499 ft. | 109.94 | 147.42 | 16.49 | 22.11 |
| 7,500-9,999 ft. | 149.98 | 154.35 | 22.50 | 23.15 |
| 10,000-12,499 ft. | 204.52 | 201.77 | 30.68 | 30.27 |
| 12,500-14,999 ft. | 268.28 | 261.04 | 40.24 | 39.16 |
| 15,000-17,499 ft. | 434.55 | 349.49 | 65.18 | 52.42 |
| 17,500-19,999 ft. | 530.58 | 495.04 | 79.59 | 74.26 |
| 20,000-Deeper ft. | 283.32 | 743.21 | 42.50 | 111.48 |

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

| Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters* | | | | |
|--|--------------------------------|--------|---------------------------------------|--------|
| Producing Depths | Cost—New By Depth, Per Foot | | 15% Of Cost—New By Depth, Per Foot | |
| | \$ Oil | \$ Gas | \$ Oil | \$ Gas |
| | 0 -1,249 ft. | N/A | N/A | N/A |
| 1,250 -2,499 ft. | 1357.13 | 991.64 | 203.57 | 148.75 |
| 2,500 -3,749 ft. | 697.85 | 762.11 | 104.68 | 114.32 |
| 3,750 -4,999 ft. | 996.11 | 698.83 | 149.42 | 104.82 |
| 5,000 -7,499 ft. | 495.70 | 647.26 | 74.36 | 97.09 |
| 7,500 -9,999 ft. | 628.47 | 612.50 | 94.27 | 91.88 |
| 10,000 -12,499 ft. | 711.48 | 620.87 | 106.72 | 93.13 |
| 12,500 -14,999 ft. | 618.79 | 604.21 | 92.82 | 90.63 |
| 15,000 -17,499 ft. | 426.50 | 626.93 | 63.98 | 94.04 |
| 17,500 -19,999 ft. | N/A | 599.36 | N/A | 89.90 |
| 20,000 - Deeper ft. | N/A | 942.14 | N/A | 141.32 |

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

| Table 907.B.1 Parishes Considered to be Located in Region 1 | | | |
|--|--------------|--------------|--------------|
| Bienville | DeSoto | Madison | Tensas |
| Bossier | East Carroll | Morehouse | Union |
| Caddo | Franklin | Natchitoches | Webster |
| Caldwell | Grant | Ouachita | West Carroll |
| Catahoula | Jackson | Red River | Winn |
| Claiborne | LaSalle | Richland | |
| Concordia | Lincoln | Sabine | |

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

| Table 907.B.2 Serial Number to Percent Good Conversion Chart | | | |
|---|-------------------------|----------------------|---------------------------|
| Year | Beginning Serial Number | Ending Serial Number | 17 Year Life Percent Good |
| 2010 | 240636 | Higher | 96 |
| 2009 | 239277 | 240635 | 91 |
| 2008 | 236927 | 239276 | 87 |
| 2007 | 234780 | 236926 | 82 |
| 2006 | 232639 | 234779 | 77 |
| 2005 | 230643 | 232638 | 73 |
| 2004 | 229010 | 230642 | 68 |
| 2003 | 227742 | 229009 | 62 |
| 2002 | 226717 | 227741 | 57 |
| 2001 | 225352 | 226716 | 51 |
| 2000 | 223899 | 225351 | 46 |
| 1999 | 222882 | 223898 | 40 |
| 1998 | 221596 | 222881 | 35 |
| 1997 | 220034 | 221595 | 31 |
| 1996 | 218653 | 220033 | 28 |
| 1995 | 217588 | 218652 | 25 |
| 1994 | 216475 | 217587 | 21 |
| 1993 | Lower | 216474 | 20 * |
| VAR. | 900000 | Higher | 50 |

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

| Table 907.B.3 Serial Number to Percent Good Conversion Chart Horizontal Wells | | | |
|---|-------------------------|----------------------|---------------------------|
| Year | Beginning Serial Number | Ending Serial Number | 11 Year Life Percent Good |
| 2010 | 240636 | Higher | 93 |
| 2009 | 239277 | 240635 | 86 |
| 2008 | 236927 | 239276 | 78 |
| 2007 | 234780 | 236926 | 70 |
| 2006 | 232639 | 234779 | 62 |
| 2005 | 230643 | 232638 | 54 |
| 2004 | 229010 | 230642 | 45 |
| 2003 | 227742 | 229009 | 37 |
| 2002 | 226717 | 227741 | 30 |

| Table 907.B.3 Serial Number to Percent Good Conversion Chart Horizontal Wells | | | |
|---|-------------------------|----------------------|---------------------------|
| Year | Beginning Serial Number | Ending Serial Number | 11 Year Life Percent Good |
| 2001 | 225352 | 226716 | 25 |
| 2000 | 223899 | 225351 | 22 |
| 1999 | Lower | 223898 | 20 * |

*Reflects residual or floor rate.

NOTE: This table is to be used for wells drilled with a minimum of 80 degrees deviation from vertical for a distance of at least fifty feet consistent with Marshall and Swift life expectancy guidelines for Petroleum and Natural Gas exploration and production.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report—Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- oil, gas and associated wells;
- oil and gas equipment (surface equipment);
- tanks (surface equipment);
- lines (oil and gas lease lines);
- inventories (material and supplies);
- field improvements (docks, buildings, etc.);
- other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table B.2 of this Section. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

| Table 907.C.1 Surface Equipment | |
|---|-------------|
| Property Description | \$ Cost New |
| Actuators—(See Metering Equipment) | |
| Automatic Control Equipment—(See Safety Systems) | |
| Automatic Tank Switch Unit—(See Metering Equipment) | |
| Barges - Concrete—(Assessed on an individual basis) | |
| Barges - Storage—(Assessed on an individual basis) | |
| Barges - Utility—(Assessed on an individual basis) | |
| Barges - Work—(Assessed on an individual basis) | |
| Communication Equipment—(See Telecommunications) | |
| Dampeners—(See Metering Equipment - "Recorders") | |

| Table 907.C.1 Surface Equipment | |
|--|---|
| Property Description | \$ Cost New |
| DESORBERS—(No metering equipment included): 125# 300# 500# | 109,990 121,270 138,000 |
| Destroilets—(See Metering Equipment - "Regulators") | |
| Desurgers—(See Metering Equipment - "Regulators") | |
| Desilters—(See Metering Equipment - "Regulators") | |
| Diatrollers—(See Metering Equipment - "Regulators") | |
| Docks, Platforms, Buildings—(Assessed on an individual basis) | |
| Dry Dehydrators (Driers)—(See Scrubbers) | |
| Engines-Unattached—(Only includes engine & skids): Per Horsepower | 350 |
| Evaporators—(Assessed on an individual basis) | |
| Expander Unit—(No metering equipment included): Per Unit | 40,350 |
| Flow Splitters—(No metering equipment included): 48 In. Diameter Vessel 72 In. Diameter Vessel 96 In. Diameter Vessel 120 In. Diameter Vessel | 19,640 26,020 39,880 56,660 |
| Fire Control System—(Assessed on an individual basis) | |
| Furniture & Fixtures—(Assessed on an individual basis) (Field operations only, according to location.) | |
| Gas Compressors-Package Unit—(skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.): 50 HP and less - Per HP 51 HP to 100 HP - Per HP 101 HP and higher - Per HP | 1,500 1,290 940 |
| Gas Coolers—(No metering equipment); 5,000 MCF/D 10,000 MCF/D 20,000 MCF/D 50,000 MCF/D 100,000 MCF/D | 31,000 34,910 108,590 246,360 403,480 |
| Generators—Package Unit only -(No special installation) Per K.W. | 230 |
| Glycol Dehydration-Package Unit—(including pressure gauge, relief valve and regulator. No other metering equipment.): Up to 4.0 MMCF/D 4.1 to 5.0 MMCF/D 5.1 to 10.0 MMCF/D 10.1 to 15.0 MMCF/D 15.1 to 20.0 MMCF/D 20.1 to 25.0 MMCF/D 25.1 to 30.0 MMCF/D 30.1 to 50.0 MMCF/D 50.1 to 75.0 MMCF/D 75.1 & Up MMCF/D | 21,760 24,270 46,780 65,080 88,590 115,200 218,810 244,430 304,070 350,850 |
| Heaters—(includes unit, safety valves, regulators and automatic shut-down. No metering equipment.): Steam Bath—Direct Heater: 24 In. Diameter Vessel - 250,000 BTU/HR Rate 30 In. Diameter Vessel - 500,000 BTU/HR Rate 36 In. Diameter Vessel - 750,000 BTU/HR Rate 48 In. Diameter Vessel - 1,000,000 BTU/HR Rate 60 In. Diameter Vessel - 1,500,000 BTU/HR Rate Water Bath—Indirect Heater: 24 In. Diameter Vessel - 250,000 BTU/HR Rate 30 In. Diameter Vessel - 500,000 BTU/HR Rate 36 In. Diameter Vessel - 750,000 BTU/HR Rate 48 In. Diameter Vessel - 1,000,000 BTU/HR Rate 60 In. Diameter Vessel - 1,500,000 BTU/HR Rate Steam—(Steam Generators): 24 In. Diameter Vessel - 250,000 BTU/HR Rate 30 In. Diameter Vessel - 450,000 BTU/HR Rate 36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate 48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate 60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate 72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate | 7,540 9,480 11,460 16,960 20,930 6,440 8,830 11,520 16,310 20,870 8,250 10,290 15,440 17,720 20,060 31,690 |

| Table 907.C.1 Surface Equipment | |
|---|----------------|
| Property Description | \$ Cost New |
| 96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate | 38,070 |
| Heat Exchange Units-Skid Mounted—(See Production Units) | |
| Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.): Heater - Treaters - (Non-metering): | |
| 4 x 20 ft. | 16,490 |
| 4 x 27 ft. | 21,230 |
| 6 x 20 ft. | 22,230 |
| 6 x 27 ft. | 27,950 |
| 8 x 20 ft. | 35,610 |
| 8 x 27 ft. | 41,690 |
| 10 x 20 ft. | 47,080 |
| 10 x 27 ft. | 55,380 |
| L.A.C.T. (Lease Automatic Custody Transfer) – See Metering Equipment) | |
| JT Skid (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.): | |
| Up to 2 MMCF/D | 40,930 |
| Up to 5 MMCF/D | 58,480 |
| Up to 10 MMCF/D | 140,340 |
| Up to 20 MMCF/D | 233,900 |
| Liqua Meter Units—(See Metering Equipment) | |
| Manifolds—(See Metering Equipment) | |
| Material & Supplies-Inventories—(Assessed on an individual basis) | |
| Meter Calibrating Vessels—(See Metering Equipment) | |
| Meter Prover Tanks—(See Metering Equipment) | |
| Meter Runs—(See Metering Equipment) | |
| Meter Control Stations—(not considered Communication Equipment) - (Assessed on an individual basis) | |
| Metering Equipment | |
| Actuators—hydraulic, pneumatic & electric valves | 6,370 |
| Controllers—time cycle valve - valve controlling device (also known as Intermittent) | 1,990 |
| Fluid Meters: | |
| 1 Level Control | |
| 24 In. Diameter Vessel - 1/2 bbl. Dump | 4,850 |
| 30 In. Diameter Vessel - 1 bbl. Dump | 6,260 |
| 36 In. Diameter Vessel - 2 bbl. Dump | 8,650 |
| 2 Level Control | |
| 20 In. Diameter Vessel - 1/2 bbl. Dump | 4,560 |
| 24 In. Diameter Vessel - 1/2 bbl. Dump | 5,500 |
| 30 In. Diameter Vessel - 1 bbl. Dump | 6,910 |
| 36 In. Diameter Vessel - 2 bbl. Dump | 9,300 |
| L.A.C.T. & A.T.S. Units: | |
| 30 lb. Discharge | 30,640 |
| 60 lb. Discharge | 34,910 |
| Manifolds—Manual Operated: | |
| High Pressure | |
| per well | 24,040 |
| per valve | 8,120 |
| Low Pressure | |
| per well | 11,630 |
| per valve | 3,860 |
| Manifolds—Automatic Operated: | |
| High Pressure | |
| per well | 43,450 |
| per valve | 14,330 |
| Low Pressure | |
| per well | 31,000 |
| per valve | 10,470 |
| NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included. | |

| Table 907.C.1 Surface Equipment | |
|---|----------------|
| Property Description | \$ Cost New |
| Meter Runs—piping, valves & supports – no meters: | |
| 2 In. piping & valve | 6,550 |
| 3 In. piping & valve | 7,360 |
| 4 In. piping & valve | 8,880 |
| 6 In. piping & valve | 12,390 |
| 8 In. piping & valve | 18,620 |
| 10 In. piping & valve | 24,800 |
| 12 In. piping & valve | 31,000 |
| 14 In. piping & valve | 42,220 |
| 16 In. piping & valve | 55,140 |
| 18 In. piping & valve | 68,300 |
| 20 In. piping & valve | 88,770 |
| 22 In. piping & valve | 111,870 |
| 24 In. piping & valve | 136,950 |
| Metering Vessels (Accumulators): | |
| 1 bbl. calibration plate (20 x 9) | 3,800 |
| 5 bbl. calibration plate (24 x 10) | 4,090 |
| 7.5 bbl. calibration plate (30 x 10) | 5,730 |
| 10 bbl. calibration plate (36 x 10) | 7,130 |
| Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations. per meter | 2,630 |
| Solar Panel (also see Telecommunications) per unit (10' x 10') | 350 |
| Pipe Lines—Lease Lines | |
| Steel | |
| 2 In. nominal size - per mile | 19,060 |
| 2 1/2 In. nominal size - per mile | 25,670 |
| 3 & 3 1/2 In. nominal size - per mile | 32,740 |
| 4, 4 1/2 & 5 In. nominal size - per mile | 56,310 |
| 6 In. nominal size - per mile | 82,680 |
| Poly Pipe | |
| 2 In. nominal size - per mile | 10,470 |
| 2 1/2 In. nominal size - per mile | 14,090 |
| 3 In. nominal size - per mile | 18,010 |
| 4 In. nominal size - per mile | 30,930 |
| 6 In. nominal size - per mile | 45,430 |
| Plastic—Fiberglass | |
| 2 In. nominal size - per mile | 16,260 |
| 3 In. nominal size - per mile | 27,840 |
| 4 In. nominal size - per mile | 47,840 |
| 6 In. nominal size - per mile | 70,230 |
| NOTE: Allow 90% obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines. | |
| Pipe Stock—(Assessed on an individual basis) | |
| Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C) | |
| Production Units: | |
| Class I - per unit - separator & 1 heater – 500 MCF/D | 20,580 |
| Class II - per unit - separator & 1 heater – 750 MCF/D | 27,420 |
| Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.) | |
| Pumps—In Line | |
| per horsepower rating of motor | 290 |
| Pump-Motor Unit—pump and motor only | |
| Class I - (water flood, s/w disposal, p/l, etc.) | |
| Up to 300 HP - per HP of motor | 350 |
| Class II - (high pressure injection, etc.) | |
| 301 HP and up per HP of motor | 410 |
| Pumping Units-Conventional & Beam Balance—(Unit value includes motor) - assessed according to API designation. | |
| 16 D | 6,730 |
| 25 D | 12,630 |
| 40 D | 15,790 |
| 57 D | 21,050 |
| 80 D | 35,140 |

| Table 907.C.1 Surface Equipment | |
|--|----------------|
| Property Description | \$ Cost New |
| 114 D | 36,550 |
| 160 D | 49,180 |
| 228 D | 53,390 |
| 320 D | 67,480 |
| 456 D | 80,110 |
| 640 D | 97,010 |
| 912 D | 102,620 |
| NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30. | |
| Regenerators (Accumulator)—(See Metering Equipment) | |
| Regulators: per unit | 2,690 |
| Safety Systems | |
| Onshore And Marsh Area Basic Case: | |
| well only | 5,380 |
| well & production equipment | 6,200 |
| with surface op. ssv, add | 9,300 |
| Offshore 0 - 3 Miles | |
| Wellhead safety system (excludes wellhead actuators) per well | 15,500 |
| production train | 38,760 |
| glycol dehydration system | 23,280 |
| P/L pumps and LACT | 54,260 |
| Compressors | 34,090 |
| Wellhead Actuators (does not include price of the valve) | |
| 5,000 psi | 3,860 |
| 10,000 psi and over | 5,790 |
| NOTE: For installation costs - add 25% | |
| Sampler—(See Metering Equipment - "Fluid Meters") | |
| Scrubbers—Two Classes | |
| Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit. | |
| 8 In. Diameter Vessel | 3,270 |
| 10 In. Diameter Vessel | 4,680 |
| 12 In. Diameter Vessel | 5,320 |
| Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop- made" and not considered as major scrubbing equipment. | |
| 8 In. Diameter Vessel | 1,520 |
| 12 In. Diameter Vessel | 1,990 |
| NOTE: No metering or regulating equipment included in the above. | |
| Separators—(No metering equipment included) | |
| Horizontal—Filter /1,440 psi (High Pressure) | |
| 6-5/8" OD x 5'-6" | 4,790 |
| 8-5/8" OD x 7'-6" | 5,210 |
| 10-3/4" OD x 8'-0" | 7,310 |
| 12-3/4" OD x 8'-0" | 9,820 |
| 16" OD x 8'-6" | 15,790 |
| 20" OD x 8'-6" | 23,330 |
| 20" OD x 12'-0" | 24,560 |
| 24" OD x 12'-6" | 33,100 |
| 30" OD x 12'-6" | 48,300 |
| 36" OD x 12'-6" | 57,420 |
| Vertical 2—Phase /125 psi (Low Pressure) | |
| 24" OD x 7'-6" | 5,440 |
| 30" OD x 10'-0" | 5,840 |
| 36" OD x 10'-0" | 12,220 |
| Vertical 3—Phase /125 psi (Low Pressure) | |
| 24" OD x 7'-6" | 5,730 |
| 24" OD x 10'-0" | 6,490 |
| 30" OD x 10'-0" | 9,010 |
| 36" OD x 10'-0" | 12,810 |
| 42" OD x 10'-0" | 14,850 |
| Horizontal 3—Phase /125 psi (Low Pressure) | |
| 24" OD x 10'-0" | 8,480 |
| 30" OD x 10'-0" | 10,870 |
| 36" OD x 10'-0" | 11,870 |
| 42" OD x 10'-0" | 18,940 |

| Table 907.C.1 Surface Equipment | |
|---|----------------|
| Property Description | \$ Cost New |
| Vertical 2—Phase /1440 psi (High Pressure) | |
| 12-3/4" OD x 5'-0" | 3,220 |
| 16" OD x 5'-6" | 4,790 |
| 20" OD x 7'-6" | 9,120 |
| 24" OD x 7'-6" | 11,050 |
| 30" OD x 10'-0" | 16,840 |
| 36" OD x 10'-0" | 21,810 |
| 42" OD x 10'-0" | 34,910 |
| 48" OD x 10'-0" | 41,170 |
| 54" OD x 10'-0" | 62,330 |
| 60" OD x 10'-0" | 77,950 |
| Vertical 3 - Phase /1440 psi (High Pressure) | |
| 16" OD x 7'-6" | 5,610 |
| 20" OD x 7'-6" | 9,820 |
| 24" OD x 7'-6" | 11,400 |
| 30" OD x 10'-0" | 17,600 |
| 36" OD x 10'-0" | 22,520 |
| 42" OD x 10'-0" | 36,720 |
| 48" OD x 10'-0" | 42,570 |
| Horizontal 2—Phase /1440 psi (High Pressure) | |
| 16" OD x 7'-6" | 5,500 |
| 20" OD x 7'-6" | 8,830 |
| 24" OD x 10'-0" | 12,050 |
| 30" OD x 10'-0" | 18,540 |
| 36" OD x 10'-0" | 23,510 |
| 42" OD x 15'-0" | 47,710 |
| 48" OD x 15'-0" | 55,020 |
| Separators—(No metering equipment included) | |
| Horizontal 3—Phase /1440 psi (High Pressure) | |
| 16" OD x 7'-6" | 8,480 |
| 20" OD x 7'-6" | 9,480 |
| 24" OD x 10'-0" | 13,800 |
| 30" OD x 10'-0" | 19,640 |
| 36" OD x 10'-0" | 28,300 |
| 36" OD x 15'-0" | 31,630 |
| Offshore Horizontal 3—Phase /1440 psi (High Pressure) | |
| 30" OD x 10'-0" | 40,750 |
| 36" OD x 10'-0" | 38,890 |
| 36" OD x 12'-0" | 56,430 |
| 36" OD x 15'-0" | 58,890 |
| 42" OD x 15'-0" | 91,390 |
| Skimmer Tanks—(See Flow Tanks in Tanks section) | |
| Stabilizers—per unit | |
| | 6,020 |
| Sump/Dump Tanks—(See Metering Equipment -"Fluid Tanks") | |
| Tanks—No metering equipment | |
| Flow Tanks (receiver or gunbarrel) 50 to 548 bbl. Range (average tank size - 250 bbl.) | 37.70 |
| Stock Tanks (lease tanks) 100 to 750 bbl. Range (average tank size - 300 bbl.) | 29.30 |
| Storage Tanks (Closed Top) | |
| 1,000 barrel | 24.90 |
| 1,500 barrel | 22.00 |
| 2,000 barrel | 21.40 |
| 2,001 - 5,000 barrel | 19.70 |
| 5,001 - 10,000 barrel | 18.40 |
| 10,001 - 15,000 barrel | 17.30 |
| 15,001 - 55,000 barrel | 12.10 |
| 55,001 - 150,000 barrel | 9.20 |
| Internal Floating Roof | |
| 10,000 barrel | 35.50 |
| 20,000 barrel | 24.10 |
| 30,000 barrel | 17.90 |
| 50,000 barrel | 15.90 |
| 55,000 barrel | 15.30 |
| 80,000 barrel | 13.50 |
| 100,000 barrel | 11.80 |
| *I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.) | |
| Telecommunications Equipment | |
| Microwave System | 46,780 |
| Telephone & data transmission Radio telephone | 3,510 |

| Table 907.C.1 Surface Equipment | |
|---|-------------|
| Property Description | \$ Cost New |
| Supervisory controls: | |
| remote terminal unit, well | 10,000 |
| master station | 22,810 |
| towers (installed): | |
| heavy duty, guyed, per foot | 580 |
| light duty, guyed, per foot | 40 |
| heavy duty, self supporting, per foot | 590 |
| light duty, self supporting, per foot | 120 |
| equipment building, per sq. ft. | 180 |
| solar panels, per sq. ft. | 60 |
| Utility Compressors per horsepower - rated on motor | 770 |
| Vapor Recovery Unit—No Metering Equipment | |
| 60 MCF/D or less | 20,470 |
| 105 MCF/D max | 29,230 |
| 250 MCF/D max | 38,600 |
| Waterknockouts—Includes unit, backpressure valve & regulator, but, no metering equipment. | |
| 2' diam. x 16' | 5,550 |
| 3' diam. x 10' | 8,300 |
| 4' diam. x 10' | 11,460 |
| 6' diam. x 10' | 18,770 |
| 6' diam. x 15' | 21,690 |
| 8' diam. x 10' | 27,190 |
| 8' diam. x 15' | 31,220 |
| 8' diam. x 20' | 34,620 |
| 8' diam. x 25' | 38,540 |
| 10' diam. x 20' | 45,320 |

| Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure | |
|---|-------------|
| Property Description | \$ Cost New |
| Air and Water Units: | |
| Above ground | 1,170 |
| Below ground | 490 |
| Air Compressors: | |
| 1/3 to 1 H.P. | 1,560 |
| 1/2 to 5 H.P. | 2,630 |
| Car Wash Equipment: | |
| In Bay (roll over brushes) | 41,920 |
| In Bay (pull through) | 65,070 |
| Tunnel (40 to 50 ft.) | 141,640 |
| Tunnel (60 to 75 ft.) | 189,550 |
| Drive On Lifts: | |
| Single Post | 7,660 |
| Dual Post | 8,620 |
| Lights: | |
| Light Poles (each) | 780 |
| Lights - per pole unit | 860 |
| Pumps: | |
| Non-Electronic - self contained and/or remote controlled computer | |
| Single | 3,310 |
| Dual | 4,930 |
| Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers | |
| Single | 5,600 |
| Dual | 7,550 |
| Read-Out Equipment (at operator of self service) | |
| Per Hose Outlet | 1,230 |
| Signs: | |
| Station Signs | |
| 6 ft. lighted - installed on 12 ft. pole | 3,700 |
| 10 ft. lighted - installed on 16 ft. pole | 6,770 |
| Attachment Signs (for station signs) | |
| Lighted "self-serve" (4 x 11 ft.) | 3,080 |
| Lighted "pricing" (5 x 9 ft.) | 3,160 |
| High Rise Signs - 16 ft. lighted - installed on: | |
| 1 pole | 11,210 |

| Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure | |
|--|-------------|
| Property Description | \$ Cost New |
| 2 poles | 14,660 |
| 3 poles | 16,400 |
| Attachment Signs (for high rise signs) | |
| Lighted "self-serve" (5 x 17 ft.) | 5,960 |
| Lighted "pricing" (5 x 9 ft.) | 3,160 |
| Submerged Pumps—(used with remote control equipment, according to number used - per unit) | 3,310 |
| Tanks—(average for all tank sizes) | |
| Underground - per gallon | 1.90 |

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), LR 37:

Chapter 11. Drilling Rigs and Related Equipment §1103. Drilling Rigs and Related Equipment Tables A. Land Rigs

| Table 1103.A Land Rigs | | |
|-----------------------------|-------------------|------------|
| Depth "0" to 7,000 Feet | | |
| Depth (Ft.) | Fair Market Value | Assessment |
| | \$ | \$ |
| 3,000 | 684,300 | 102,600 |
| 4,000 | 788,700 | 118,300 |
| 5,000 | 1,056,700 | 158,500 |
| 6,000 | 1,440,800 | 216,100 |
| 7,000 | 1,899,600 | 284,900 |
| Depth 8,000 to 10,000 Feet | | |
| Depth (Ft.) | Fair Market Value | Assessment |
| | \$ | \$ |
| 8,000 | 2,397,400 | 359,600 |
| 9,000 | 2,904,500 | 435,700 |
| 10,000 | 3,397,200 | 509,600 |
| Depth 11,000 to 15,000 Feet | | |
| Depth (Ft.) | Fair Market Value | Assessment |
| | \$ | \$ |
| 11,000 | 3,857,400 | 578,600 |
| 12,000 | 4,273,200 | 641,000 |
| 13,000 | 4,638,600 | 695,800 |
| 14,000 | 4,953,200 | 743,000 |
| 15,000 | 5,222,900 | 783,400 |

| Table 1103.A Land Rigs | | |
|-----------------------------|-------------------|------------|
| Depth 16,000 to 20,000 Feet | | |
| Depth (Ft.) | Fair Market Value | Assessment |
| | \$ | \$ |
| 16,000 | 5,459,200 | 818,900 |
| 17,000 | 5,679,700 | 852,000 |
| 18,000 | 5,907,800 | 886,200 |
| 19,000 | 6,172,800 | 925,900 |
| 20,000 | 6,510,000 | 976,500 |
| Depth 21,000 + Feet | | |
| Depth (Ft.) | Fair Market Value | Assessment |
| | \$ | \$ |
| 21,000 | 6,960,600 | 1,044,100 |
| 25,000 + | 7,571,400 | 1,135,700 |

Barges (Hull)—Assess Barges (Hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

Living quarters are to be assessed on an individual basis.

B. Jack-Ups

| Table 1103.B Jack-Ups | | | |
|--------------------------|--------------------|-------------------|--------------|
| Type | Water Depth Rating | Fair Market Value | Assessment |
| IC | 0-199 ft. | \$ 50,000,000 | \$ 7,500,000 |
| | 200-299 ft. | 100,000,000 | 15,000,000 |
| | 300 ft. and Deeper | 200,000,000 | 30,000,000 |
| IS | 0-199 ft. | \$ 15,000,000 | \$ 2,250,000 |
| | 200-299 ft. | \$ 25,000,000 | \$ 3,750,000 |
| | 300 ft. and Deeper | \$ 30,000,000 | \$ 4,500,000 |
| MC | 0-199 ft. | \$ 5,000,000 | \$ 750,000 |
| | 200-299 ft. | \$ 10,000,000 | \$ 1,500,000 |
| | 300 ft. and Deeper | \$ 40,000,000 | \$ 6,000,000 |
| MS | 0-249 ft. | \$ 10,500,000 | \$ 1,575,000 |
| | 250 ft. and Deeper | \$ 20,670,000 | \$ 3,100,500 |

IC - Independent Leg Cantilever

IS - Independent Leg Slot

MC - Mat Cantilever

MS - Mat Slot

C. Semisubmersible Rigs

| Table 1103.C Semisubmersible Rigs | | |
|--------------------------------------|-------------------|---------------|
| Water Depth Rating | Fair Market Value | Assessment |
| 0- 800 ft. | \$ 45,700,000 | \$ 6,855,000 |
| 801-1,800 ft. | \$ 81,875,000 | \$ 12,281,300 |
| 1,801-2,500 ft. | \$ 150,000,000 | \$ 22,500,000 |
| 2,501 ft. and Deeper | \$ 400,000,000 | \$ 60,000,000 |

C.1. - C.3.b.i. ...

D. Well Service Rigs Land Only

| Table 1103.D Well Service Rigs Land Only | | | | |
|---|----------------------------|--------|---------------------------|------------|
| Class | Mast | Engine | Fair Market Value (RCNLD) | Assessment |
| I | 72' X 125M# 75' X 150M# | 6V71 | 180,000 | 27,000 |

| Table 1103.D Well Service Rigs Land Only | | | | |
|---|--|-----------------------|---------------------------|------------|
| Class | Mast | Engine | Fair Market Value (RCNLD) | Assessment |
| II | 96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M# | 8V71 | 230,000 | 34,500 |
| III | 96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M# | 8V92 | 300,000 | 45,000 |
| IV | 102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M# | 12V71 | 340,000 | 51,000 |
| V | 105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M# | 12V71 12V92 | 432,000 | 64,800 |
| VI | 110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M# | 12V71 (2) 8V92 | 485,000 | 72,800 |
| VII | 117' X 215M# | (2) 8V92 (2) 12V71 | 515,000 | 77,300 |

D.1. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), LR 37:

Chapter 13. Pipelines

§1305. Reporting Procedures

A. - B. ...

C. Use schedules adopted by the Tax Commission and report cost per mile, calculate and extend "total replacement cost".

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

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§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

| Table 1307.A Current Costs for Other Pipelines (Onshore) | | |
|--|---------------|----------------------|
| Diameter (inches) | Cost per Mile | 15% of Cost per Mile |
| 2 | \$ 168,280 | \$ 25,240 |
| 4 | 196,690 | 29,500 |
| 6 | 229,900 | 34,490 |
| 8 | 268,710 | 40,310 |
| 10 | 314,080 | 47,110 |
| 12 | 367,100 | 55,070 |
| 14 | 429,080 | 64,360 |
| 16 | 501,520 | 75,230 |
| 18 | 586,190 | 87,930 |
| 20 | 685,160 | 102,770 |
| 22 | 800,830 | 120,120 |
| 24 | 936,030 | 140,400 |
| 26 | 1,094,060 | 164,110 |
| 28 | 1,278,760 | 191,810 |
| 30 | 1,494,650 | 224,200 |
| 32 | 1,746,980 | 262,050 |
| 34 | 2,041,920 | 306,290 |
| 36 | 2,386,650 | 358,000 |
| 38 | 2,789,580 | 418,440 |
| 40 | 3,260,540 | 489,080 |
| 42 | 3,811,000 | 571,650 |
| 44 | 4,454,400 | 668,160 |
| 46 | 5,206,410 | 780,960 |
| 48 | 6,085,390 | 912,810 |

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

| Table 1307.B Current Costs for Other Pipelines (Offshore) | | |
|---|---------------|----------------------|
| Diameter (inches) | Cost per Mile | 15% of Cost per Mile |
| 6 | \$ 958,220 | \$ 143,730 |
| 8 | 969,000 | 145,350 |
| 10 | 978,300 | 146,750 |
| 12 | 995,790 | 149,370 |
| 14 | 1,021,480 | 153,220 |
| 16 | 1,055,370 | 158,310 |
| 18 | 1,097,450 | 164,620 |
| 20 | 1,147,730 | 172,160 |
| 22 | 1,206,210 | 180,930 |
| 24 | 1,272,890 | 190,930 |
| 26 | 1,347,760 | 202,160 |
| 28 | 1,430,820 | 214,620 |
| 30 | 1,522,090 | 228,310 |
| 32 | 1,621,550 | 243,230 |
| 34 | 1,729,210 | 259,380 |
| 36 | 1,845,060 | 276,760 |
| 38 | 1,969,110 | 295,370 |
| 40 | 2,101,360 | 315,200 |
| 42 | 2,241,800 | 336,270 |
| 44 | 2,390,450 | 358,570 |
| 46 | 2,547,280 | 382,090 |
| 48 | 2,712,320 | 406,850 |

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

| Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation) | |
|--|-----------------------------|
| Actual Age | 26.5 Year Life Percent Good |
| 1 | 98 |

| Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation) | |
|--|-----------------------------|
| Actual Age | 26.5 Year Life Percent Good |
| 2 | 96 |
| 3 | 94 |
| 4 | 91 |
| 5 | 88 |
| 6 | 86 |
| 7 | 83 |
| 8 | 80 |
| 9 | 77 |
| 10 | 73 |
| 11 | 70 |
| 12 | 67 |
| 13 | 63 |
| 14 | 60 |
| 15 | 56 |
| 16 | 52 |
| 17 | 48 |
| 18 | 44 |
| 19 | 39 |
| 20 | 35 |
| 21 | 33 |
| 22 | 30 |
| 23 | 28 |
| 24 | 26 |
| 25 | 25 |
| 26 | 23 |
| 27 and older | 20 * |

* Reflects residual or floor rate.

Note: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

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Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

| Table 1503 Aircraft (Including Helicopters) | | | | |
|--|-------|-------------------------------------|-----------------|-------------------------|
| Cost Index (Average) | | Average Economic Life (20 Years) | | |
| Year | Index | Effective Age | Percent Good | Composite Multiplier |
| 2010 | 0.993 | 1 | 97 | .96 |
| 2009 | 0.985 | 2 | 93 | .92 |
| 2008 | 1.013 | 3 | 90 | .91 |
| 2007 | 1.053 | 4 | 86 | .91 |
| 2006 | 1.111 | 5 | 82 | .91 |
| 2005 | 1.162 | 6 | 78 | .91 |
| 2004 | 1.250 | 7 | 74 | .90 |
| 2003 | 1.293 | 8 | 70 | .89 |
| 2002 | 1.315 | 9 | 65 | .85 |
| 2001 | 1.323 | 10 | 60 | .79 |
| 2000 | 1.334 | 11 | 55 | .73 |
| 1999 | 1.358 | 12 | 50 | .68 |
| 1998 | 1.362 | 13 | 45 | .61 |
| 1997 | 1.374 | 14 | 40 | .55 |

| Table 1503 Aircraft (Including Helicopters) | | | | |
|--|-------|-------------------------------------|--------------|----------------------|
| Cost Index (Average) | | Average Economic Life (20 Years) | | |
| Year | Index | Effective Age | Percent Good | Composite Multiplier |
| 1996 | 1.396 | 15 | 35 | .49 |
| 1995 | 1.418 | 16 | 31 | .44 |
| 1994 | 1.469 | 17 | 27 | .40 |
| 1993 | 1.510 | 18 | 24 | .36 |
| 1992 | 1.539 | 19 | 22 | .34 |
| 1991 | 1.558 | 20 | 21 | .33 |
| 1990 | 1.589 | 21 | 20 | .32 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), LR 37:

Chapter 25. General Business Assets

§2503. Tables Ascertain Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. Suggested Guideline For Ascertain Economic Lives of Business and Industrial Personal Property. The following alphabetical list includes most of the principal activities and types of machinery and equipment used in business throughout this state. The years shown represent an estimate of the average economic life of the equipment as experienced by the particular business or industry. The actual economic life of the assets of the business under appraisal may be more or less than the guidelines shown. The assessor must use his best judgment in consultation with the property owner in establishing the economic life of the property under appraisal.

1. Suggested Guidelines for Ascertain Economic Lives of Business and Industrial Personal Property

| Table 2503.A Business Activity/Type of Equipment | Average Economic Life in Years |
|---|--------------------------------|
| Agricultural Machinery & Equipment | 10 |
| Feed Mill Equipment (Production Line) | 20 |
| *** | *** |
| Hospital and Nursing Home Equipment | 12 |
| High Tech (Computer Driven) Equipment | 5 |
| Hotel F&F | 10 |
| *** | *** |
| *If acquisition cost and age of service station equipment are not available, see Chapter 9, Table 907.B-2 for alternative assessment procedure. | |

B. Cost Indices

| Table 2503.B Cost Indices | | | |
|------------------------------|-----|--------------------------------|------------------------|
| Year | Age | National Average 1926 = 100 | January 1, 2010 = 100* |
| 2010 | 1 | 1457.4 | 0.993 |
| 2009 | 2 | 1468.6 | 0.985 |
| 2008 | 3 | 1427.3 | 1.013 |
| 2007 | 4 | 1373.3 | 1.053 |
| 2006 | 5 | 1302.3 | 1.111 |
| 2005 | 6 | 1244.5 | 1.162 |
| 2004 | 7 | 1157.3 | 1.250 |
| 2003 | 8 | 1118.6 | 1.293 |
| 2002 | 9 | 1100.0 | 1.315 |
| 2001 | 10 | 1093.4 | 1.323 |
| 2000 | 11 | 1084.3 | 1.334 |
| 1999 | 12 | 1065.0 | 1.358 |
| 1998 | 13 | 1061.8 | 1.362 |
| 1997 | 14 | 1052.7 | 1.374 |
| 1996 | 15 | 1036.0 | 1.396 |
| 1995 | 16 | 1020.4 | 1.418 |
| 1994 | 17 | 985.0 | 1.469 |
| 1993 | 18 | 958.0 | 1.510 |
| 1992 | 19 | 939.8 | 1.539 |
| 1991 | 20 | 928.5 | 1.558 |
| 1990 | 21 | 910.2 | 1.589 |
| 1989 | 22 | 886.5 | 1.632 |
| 1988 | 23 | 841.4 | 1.719 |
| 1987 | 24 | 806.9 | 1.793 |
| 1986 | 25 | 795.4 | 1.819 |
| 1985 | 26 | 787.9 | 1.836 |

*Reappraisal Date: January 1, 2010 – 1446.5 (Base Year)

C. ...

D. Composite Multipliers 2011 (2012 Orleans Parish)

| Table 2503.D Composite Multipliers 2011 (2012 Orleans Parish) | | | | | | | | | |
|---|------|------|------|------|-------|-------|-------|-------|-------|
| Age | 3 Yr | 5 Yr | 6 Yr | 8 Yr | 10 Yr | 12 Yr | 15 Yr | 20 Yr | 25 Yr |
| 1 | .70 | .84 | .86 | .89 | .91 | .93 | .94 | .96 | .97 |
| 2 | .48 | .68 | .72 | .78 | .83 | .86 | .89 | .92 | .94 |
| 3 | .34 | .53 | .58 | .68 | .77 | .81 | .86 | .91 | .94 |
| 4 | .17 | .36 | .43 | .57 | .71 | .77 | .83 | .91 | .93 |
| 5 | | .26 | .33 | .48 | .64 | .73 | .81 | .91 | .92 |
| 6 | | .21 | .22 | .38 | .57 | .67 | .79 | .91 | .91 |
| 7 | | | .21 | .33 | .49 | .63 | .78 | .90 | .90 |
| 8 | | | | .28 | .39 | .56 | .71 | .89 | .89 |
| 9 | | | | .26 | .32 | .47 | .64 | .85 | .88 |
| 10 | | | | | .28 | .38 | .57 | .79 | .87 |
| 11 | | | | | .27 | .32 | .49 | .73 | .86 |
| 12 | | | | | | .30 | .42 | .68 | .85 |
| 13 | | | | | | .27 | .35 | .61 | .82 |
| 14 | | | | | | | .32 | .55 | .77 |
| 15 | | | | | | | .29 | .49 | .73 |
| 16 | | | | | | | .28 | .44 | .68 |
| 17 | | | | | | | | .40 | .65 |
| 18 | | | | | | | | .36 | .59 |
| 19 | | | | | | | | .34 | .52 |
| 20 | | | | | | | | .33 | .47 |
| 21 | | | | | | | | .32 | .44 |
| 22 | | | | | | | | | .42 |
| 23 | | | | | | | | | .41 |
| 24 | | | | | | | | | .36 |
| 25 | | | | | | | | | .36 |
| 26 | | | | | | | | | .35 |

1. Data sources for tables are:
 - a. Cost Index—Marshall and Swift Publication Co.;
 - b. Percent Good—Marshall and Swift Publication Co.;
 - c. Average Economic Life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), LR 37:

Chapter 31. Public Exposure of Assessments; Appeals
§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - G. ...

H. Notwithstanding any provision of law to the contrary, the procedure for inspection of assessment lists in Orleans Parish shall be as follows.

1. The assessor shall prepare and make up the lists showing the assessment of immovable and movable property in Orleans Parish. The lists shall be exposed daily, except Saturday, Sunday and legal holidays, for inspection by the taxpayers and other interested persons during the period of August 1 through August 15 of each year unless August 15 falls on a weekend or a legal holiday, when the period shall extend until the next business day. The assessor shall give notice of such exposure for inspection in accordance with rules and regulations established by the Louisiana Tax Commission. On or before the tenth business day after the completion of public inspection, the assessor shall certify his rolls to the Board of Review.

2.a. The Board of Review shall consider all written complaints in which the taxpayer has timely filed the reports as required by R.S. 47:2301 et seq. and R.S. 47:2321 et seq., and which have been:

- i. filed on the complaint form provided by the board, through the Office of the Assessor;
- ii. completed in conformity with the requirements of the Board of Review;
- iii. received by the Office of the Assessor, no later than three business days after the last date on which the lists are exposed.

b. Any complaints received by the assessor's office shall be forwarded to the Board of Review within seven business days after the last date in which the lists are exposed.

3. The Board of Review shall convene hearings on or before September 15. The board may appoint one or more board members as hearing officers, who may conduct all required public hearings of the board with or without the presence of the other members, provided that no final action may be taken unless a quorum of the Board of Review is present. The board may make a determination to increase or

decrease the assessment of real or personal property made by the assessor in accordance with the fair market or use valuation as determined by the board.

4. The Board of Review shall certify the assessment list to the Louisiana Tax Commission on or before October 20 of each year.

I. - K. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), LR 37:

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2010, and ending on June 30, 2014, in connection with services performed by the Tax Commission as follows:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), LR 37:

James D. "Pete" Peters
Chairman

1012#079

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

All Inclusive Care for the Elderly
Reimbursement Rate Reduction
(LAC 50:XXIII.1301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXIII.1301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud

control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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 amended the provisions governing the Program of All Inclusive Care for the Elderly (PACE) to: 1) remove the requirement that eligibility decisions be approved by the state administering agency; 2) revise PACE disenrollment criteria; 3) allow for service area specific rates instead of one statewide rate; and 4) clarify when the obligation for patient liability begins (*Louisiana Register*, Volume 33, Number 5).

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for a PACE organization to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). Due to a continuing budgetary shortfall in state fiscal year 2011, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for PACE organizations to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$171,289 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the reimbursement methodology for the Program of All Inclusive Care for the Elderly to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIII. All Inclusive Care for the Elderly

Chapter 13. Reimbursement

§1301. Payment

A. - J.3. ...

K. Effective for dates of service on or after August 1, 2010, the monthly capitated amount paid to a PACE organization shall be reduced by 2 percent of the capitated amount on file as of July 31, 2010.

L. Effective for dates of service on or after December 1, 2010, the monthly capitated amount paid to a PACE organization shall be reduced by 3.09 percent of the capitated amount on file as of November 30, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:250 (February 2004), amended LR 33:850 (May 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#010

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Ambulatory Surgical Centers
Reimbursement Rate Reduction
(LAC 50:XI.7503)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.7503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for ambulatory surgical centers to further reduce the reimbursement rates paid for ambulatory surgical services (*Louisiana Register*, Volume 36, Number 10). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XI.7503 as a result of the promulgation of the October 20, 2010 final Rule governing ambulatory surgical centers (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department has now determined that it is necessary to further reduce the reimbursement rates paid for ambulatory surgical services. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$43,433 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 11. Ambulatory Surgical Centers

Chapter 75. Reimbursement

§7503. Reimbursement Methodology

A. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 4.4 percent of the fee amounts on file as of July 31, 2010.

F. Effective for dates of service on or after December 1, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:2278 (October 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#024

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Low Income and Needy Care Collaboration
(LAC 50:V.2503 and 2713)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2503 and adopt §2713 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., 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 repromulgated all of the Rules governing the disproportionate share hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department amended the provisions governing disproportionate share hospital payments to provide for a supplemental payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2010 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of uninsured individuals by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective January 18, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to provide for a supplemental payment to hospitals that participate in the Low Income and Needy Care Collaboration.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2503. Disproportionate Share Hospital Qualifications

A. - A.5. ...

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A.;

7. effective January 20, 2010, be a hospital participating in the Low Income and Needy Care Collaboration as defined in §2713.A.; and

8. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 27. Qualifying Hospitals

§2713. Low Income and Needy Care Collaboration

A. Definitions

Low Income and Needy Care Collaboration Agreement—an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

B. In order to qualify under this DSH category in any period, a hospital must be party to a Low Income and Needy Care Collaboration Agreement with the Department of Health and Hospitals in that period.

C. DSH payments to Low Income and Needy Care Collaborating Hospitals shall be calculated as follows.

1. In each quarter, the department shall divide hospitals qualifying under this DSH category into two pools. The first pool shall include hospitals that, in addition to qualifying under this DSH category, also qualify for DSH payments under any other DSH category. Hospitals in the first pool shall be eligible to receive DSH payments under §2713.C.2 provisions. The second pool shall include all other hospitals qualifying under this DSH category. Hospitals in the second pool shall be eligible to receive DSH payments under §2713.C.3 provisions.

2. In each quarter, to the extent the department appropriates funding to this DSH category, hospitals that qualify under the provisions of §2713.C.2 shall receive 100 percent of the total amount appropriated by the department for this DSH category.

a. If the net uncompensated care costs of these hospitals exceed the amount appropriated for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing the hospital's net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.2 and multiplying by the amount appropriated by the department.

b. If the amount appropriated for this DSH category exceeds the net uncompensated care costs of all hospitals qualifying under §2713.C.2, payment shall be made up to each hospital's net uncompensated care costs.

c. Any amount available after all distributions are made under §2713.C.2 provisions shall be distributed subject to the provisions in §2713.C.3.

3. In each quarter, to the extent distributions are available, and after all distributions are made under §2713.C.2 provisions, distributions under §2713.C.3 provisions shall be made according to the following terms.

a. If the net uncompensated care costs of all hospitals qualifying for payment under §2713.C.3 provisions exceed the amount available for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.3.

b. If the amount available for payments under §2713.C.3 exceeds the net uncompensated care costs of all qualifying hospitals, payments shall be made up to each hospital's net uncompensated care costs and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

D. In the event it is necessary to reduce the amount of disproportionate share payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under the provisions of §2713.C.3.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.3 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department will reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

E. After the reduction in §2713.D has been applied, if it is necessary to further reduce the amount of DSH payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under §2713.C.2.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.2 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department shall reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

F. Qualifying hospitals must submit costs and patient specific data in a format specified by the department. Costs and lengths of stay will be reviewed for reasonableness before payments are made.

G. Payments shall be made on a quarterly basis, however, each hospital's eligibility for DSH and net uncompensated care costs shall be determined on an annual basis.

H. Payments to hospitals qualifying under this DSH category shall be made subsequent to any DSH payments for which a hospital is eligible under another DSH category.

I. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit. The remaining payments shall be redistributed to the other hospitals in accordance with these provisions.

J. If the amount appropriated for this DSH category exceeds the specific DSH limits of all qualifying hospitals, payment will be made up to each hospital's specific DSH limit and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

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, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is 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.

Bruce D. Greenstein
Secretary

1012#120

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, 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 and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to reduce the reimbursement fees (*Louisiana Register*, Volume 36, Number 9).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for EPSDT dental services to further reduce the reimbursement rates. In addition, this Emergency Rule also amended the provisions governing the covered services and reimbursement methodology for the EPSDT Dental Program to include an additional dental procedure (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XV.6905 as a result of the promulgation of the September 20, 2010 final Rule governing EPSDT dental services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions

governing the reimbursement methodology for EPSDT dental services to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$1,270,746 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for EPSDT dental services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 69. Dental Services

§6905. Reimbursement

A. - D.3. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement fees for EPSDT dental services shall be reduced to the following percentages of the 2009 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 69 percent for the following oral evaluation services:
 - a. periodic oral examination;
 - b. oral examination—patients under three years of age; and
 - c. comprehensive oral examination—new patient;
2. 65 percent for the following annual and periodic diagnostic and preventive services:
 - a. radiographs—periapical, first film;
 - b. radiograph—periapical, each additional film;
 - c. radiograph—panoramic film;
 - d. prophylaxis—adult and child;
 - e. topical application of fluoride—adult and child (prophylaxis not included); and
 - f. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age);
3. 50 percent for the following diagnostic and adjunctive general services:
 - a. oral/facial images;
 - b. non-intravenous conscious sedation; and
 - c. hospital call; and
4. 58 percent for the remainder of the dental services.

F. Removable prosthodontics and orthodontic services are excluded from the August 1, 2010 rate reduction.

G. Effective for dates of service on and after December 1, 2010, the reimbursement fees for EPSDT dental services shall be reduced to the following percentages of the 2009 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 67.5 percent for the following oral evaluation services:
 - a. periodic oral examination;
 - b. oral Examination-patients under 3 years of age; and

- c. comprehensive oral examination-new patients;
- 2. 63.5 percent for the following annual and periodic diagnostic and preventive services:
 - a. radiographs-periapical, first film;
 - b. radiographs-periapical, each additional film;
 - c. radiographs-panoramic film;
 - d. diagnostic casts;
 - e. prophylaxis-adult and child;
 - f. topical application of fluoride, adult and child (prophylaxis not included); and
 - g. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age);
- 3. 73.5 percent for accession of tissue, gross and microscopic examination, preparation and transmission of written report;
- 4. 70.9 percent for accession of tissue, gross and microscopic examination, including assessment of surgical margins for presence of disease, preparation and transmission of written report;
- 5. 50 percent for the following diagnostic and adjunctive general services:
 - a. oral/facial image;
 - b. non-intravenous conscious sedation; and
 - c. hospital call; and
- 6. 57 percent for the remainder of the dental services.

H. Removable prosthodontics and orthodontic services are excluded from the December 1, 2010 rate reduction.

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 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), amended LR 36:2040 (September 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#021

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Health Services—EarlySteps Reimbursement Rate
Reduction (LAC 50:XV.7107)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.7107 in the Medical Assistance Program as authorized by R.S. 36:254

and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of the allocation of additional funds during the 2008 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services to increase the reimbursement rates paid for certain services rendered to infants and toddlers in the EarlySteps Program (*Louisiana Register*, Volume 35, Number 1). As a result of a budgetary shortfall in state fiscal year 2011, the department has determined that it is necessary to reduce the reimbursement rates paid for certain EPSDT health services rendered in the EarlySteps Program. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$69,374 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Early and Periodic Screening, Diagnosis and Treatment health services provided through the EarlySteps Program to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services to Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 71. Health Services

§7107. EarlySteps Reimbursement

A. - B.2.e. ...

C. Effective for dates of service on or after December 1, 2010, the reimbursement for certain Medicaid-covered health services rendered in the EarlySteps Program shall be reduced by 2 percent of the rate in effect on November 30, 2010.

1. The following services rendered in the natural environment shall be reimbursed at the reduced rate:

- a. audiology services;
- b. speech pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

2. Services rendered in special purpose facilities/inclusive child care and center-based special purpose facilities shall be excluded from this rate reduction.

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 30:800 (April 2004), amended LR 31:2030 (August 2005), LR 35:69 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#023

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

End Stage Renal Disease Facilities Reimbursement Rate Reduction (LAC 50:XI.6901 and 6903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.6901 and §6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for end stage renal disease (ESRD) facilities to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 9). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ESRD facilities to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the

provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XI.6901-6903 as a result of the promulgation of the September 20, 2010 final Rule (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for ESRD facilities to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$262,105 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for end stage renal disease facilities to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 9. End Stage Renal Disease Facilities

Chapter 69. Reimbursement

§6901. General Provisions

A. End stage renal disease (ESRD) facilities are reimbursed a hemodialysis composite rate. The composite rate is a comprehensive payment for the complete hemodialysis treatment in which the facility assumes responsibility for providing all medically necessary routine dialysis services.

B. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement to ESRD facilities shall be reduced by 4.6 percent of the rates in effect on July 31, 2010.

F. Effective for dates of service on or after December 1, 2010, the reimbursement to ESRD facilities shall be reduced by 2 percent of the rates in effect on November 30, 2010.

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 30:1022 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), LR 36:2040 (September 2010), LR 37:

§6903. Medicare Part B Claims

A. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement to ESRD facilities for Medicare Part B claims shall be reduced by 4.6 percent of the rates in effect on July 31, 2010.

F. Effective for dates of service on or after December 1, 2010, the reimbursement to ESRD facilities for Medicare Part B claims shall be reduced by 2 percent of the rates in effect on November 30, 2010.

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, Bureau of Health Services Financing, LR 35:1891 (September 2009), amended LR 36:2040 (September 2010), LR 37:

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

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#020

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Forensic Supervised Transitional Residential and Aftercare Facilities Minimum Licensing Standards (LAC 48:I.Chapter 72)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 48:I.Chapter 72 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:31. This Emergency Rule is promulgated in accordance with the provisions of 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.

Act 332 of the 2008 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to adopt provisions governing the licensing standards for forensic supervised transitional residential and aftercare facilities. Forensic supervised transitional residential and aftercare facilities shall provide care and services to clients referred by state forensic hospitals or state forensic inpatient psychiatric units currently operated by the department. In compliance with the directives of Act 332, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing the minimum licensing standards for forensic supervised transitional residential and aftercare facilities (*Louisiana Register*, Volume 36, Number 6). The department promulgated an Emergency Rule which amended the July 1, 2010 Emergency Rule to clarify the criteria for clients served by these facilities (*Louisiana Register*, Volume 36, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2010 Emergency Rule. This action is being taken to ensure continued access to services in a setting that protects the public as well as provides a controlled environment for individuals who are not capable of living independently and need structure in order to function adequately.

Effective January 19, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions governing forensic supervised transitional residential and aftercare facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 72. Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards

Subchapter A. General Provisions

§7201. Introduction

A. These rules and regulations contain the minimum licensure standards for Forensic Supervised Transitional Residential and Aftercare (FSTRA) facilities, pursuant to La. R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the Forensic Supervised Transitional Residential and Aftercare facility provider. The modules to be licensed under an FSTRA license are:

1. Secure Community Supervised Transitional/Residential Facility; and
2. Secure Forensic Facility.

B. A Forensic Supervised Transitional Residential and Aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated by the Department of Health and Hospitals, including persons who are court ordered and persons who are on court ordered conditional release status. An FSTRA facility shall operate seven days per week, 24 hours a day.

C. The care and services to be provided through arrangement or by the FSTRA facility shall include, but are not limited to the following:

1. behavioral health services;
2. nutritional services;
3. medication management;
4. assistance with independent living skills;
5. recreational services; and
6. transportation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7203. Definitions

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change which fosters the client's self-control, and to prevent or interrupt a client's behavior which threatens harm to the client or others.

Department—the Louisiana Department of Health and Hospitals.

Forensic Clients—persons transitioned from a forensic facility established pursuant to R.S. 28:25.1(A) or (B).

Forensic Supervised Transitional Residential and Aftercare Facility—a facility that provides supervised transitional residential and aftercare services to forensic clients, including persons who are court ordered or who are

on court ordered conditional release status. A forensic supervised transitional residential and aftercare facility shall provide clients, referred by state operated forensic facilities/hospitals and under court order or court ordered forensic conditional release, with individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Forensic Psychiatrist—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the individual to the FSTRA facility;
2. maintains overall responsibility for the client's medical management; and
3. is available for consultation and collaboration with the FSTRA facility staff.

Licensee—the person, partnership, company, corporation, association, organization, professional entity, or other entity to whom a license is granted by the licensing agency and upon whom rests the ultimate responsibility and authority for the conduct of and services provided by the FSTRA facility.

Secure Community Supervised Transitional/Residential Facility—a secure residential facility within the community that provides individualized services to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services enable such persons to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Secure Forensic Facility—a secure residential facility located on the grounds of a state hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services prepare such persons for transition to a less restrictive environment before transitioning to the community.

Treatment Plan—a comprehensive plan developed by the FSTRA facility for each client that includes the services each client needs. It shall include the provision of medical/psychiatric, nursing and psychosocial services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7205. Licensing Requirements

A. Any person or entity applying for an FSTRA license shall meet all of the core licensing requirements contained in this Subchapter as well as module specific requirements, unless otherwise specifically noted herein.

B. All facilities providing forensic supervised transitional residential and aftercare services shall be licensed by the department. An FSTRA facility shall not be established, opened, operated, managed, maintained, or conducted in this state without a license issued by the Department of Health and Hospitals. Each facility shall be separately licensed.

C. The Department of Health and Hospitals is the only licensing authority for FSTRA facilities in the State of Louisiana. It shall be unlawful to operate an FSTRA facility without possessing a current, valid license issued by the department.

D. Each FSTRA license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;
3. be valid for one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the FSTRA facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. The facility shall provide 24-hour, seven days per week supervision consisting of:
 - a. at least three direct care staff persons during the day and two awake staff during the night;
 - b. at least two direct care staff persons in each building and/or unit at all times when clients are present; and
 - c. a functional security system on all points of ingress and egress with 24-hour, seven days per week monitoring by awake staff.
2. There shall be staff employed and available to be assigned to provide care and services to each client during all operational hours consistent with the behavioral health needs of each client.
3. The FSTRA facility shall have provided services to at least two clients in the preceding 12 month period in order to be eligible to renew its license.

F. The licensed FSTRA facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities.

G. A separately licensed FSTRA facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other FSTRA facilities.

H. No branches, satellite locations or offsite campuses will be authorized for an FSTRA facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§7207. Initial Licensing Application Process

A. An initial application for licensing as an FSTRA facility shall be obtained from the department. A completed initial license application packet for an FSTRA facility must be submitted to and approved by the department prior to an applicant providing services. An applicant must submit a completed initial licensing packet to the department, which shall include:

1. a completed FSTRA facility licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;

5. a copy of the statewide criminal background checks on the following persons:

a. all individual owners with a 5 percent or more ownership interest in the FSTRA facility entity;

b. facility administrators; and

c. members of the facility's board of directors, if applicable;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

b. general and professional liability insurance of at least \$300,000; and

c. worker's compensation insurance.

7. if applicable, Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver;

8. a letter-sized floor sketch or drawing of the premises to be licensed; and

9. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an FSTRA facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant must notify the department that the FSTRA facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed FSTRA facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. When issued, the initial Forensic Supervised Transitional Residential and Aftercare facility license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7209. Types of Licenses

A. The department shall have the authority to issue the following types of licenses:

1. Full Initial License. The department shall issue a full license to the facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes,

laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department shall issue a provisional initial license to the facility when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the individuals receiving services. The provisional license shall be valid for a period not to exceed six months.

3. Full Renewal License. The department shall issue a full renewal license to an existing licensed FSTRA facility which is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed FSTRA facility for a period not to exceed six months for the following reasons.

1. The existing facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing facility has more than three validated complaints in one licensed year period.

3. The existing facility has been issued a deficiency that involved placing a client at risk for serious harm or death.

4. The existing facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed FSTRA facility, the department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license, and shall issue written notice of the results of the follow-up survey.

1. If the on-site follow-up survey determines that the facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the facility license.

2. If the on-site follow-up survey determines that the facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, if no timely informal reconsideration or administrative appeal is filed pursuant to this Chapter.

a. At the sole discretion of the department, the provisional license may be extended for a period, not to exceed 90 days, in order for the FSTRA facility to correct the noncompliance or deficiencies.

D. When the department issues a provisional license as a result of the initial licensing survey, the facility shall submit

a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license and shall issue written notice to the provider of the results of the follow-up survey.

1. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

a. At the sole discretion of the department, the provisional license may be extended for an additional period, not to exceed 90 days, in order for the FSTRA facility to correct the noncompliance or deficiencies.

E. The license for an FSTRA facility shall be valid for one year from the date of issuance, unless revoked, suspended, or modified prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7211. Licensing Surveys

A. Prior to the initial license being issued to the FSTRA facility, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. The facility shall not provide services until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. In the event that the initial licensing survey finds that the FSTRA facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider.

C. In the event that the initial licensing survey finds that the FSTRA facility is noncompliant with any licensing laws or regulations, or any other required statutes, laws, ordinances, rules or regulations, that present a potential threat to the health, safety, or welfare of clients, the department shall deny the initial license.

D. Once an initial license has been issued, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

E. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

1. An acceptable plan of correction may be required from an FSTRA facility for any survey where deficiencies have been cited.

2. If deficiencies have been cited, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction; and
- c. license revocations.

F. DHH surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and
2. allowed to interview any provider staff, or client as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7213. Changes in Licensee Information or Personnel

A. An FSTRA facility license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the FSTRA facility name, “doing business as” name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the occurrence. Any change regarding the facility name or “doing business as” name requires a change to the facility license and requires a \$25 fee for the reissuance of an amended license.

C. Any change regarding the facility’s key administrative personnel shall be reported in writing to the department within five days of the change.

1. Key administrative personnel include the administrator, physician/psychiatrist and the registered nurse supervisor.

2. The facility’s notice to the department shall include the individual’s:

- a. name;
- b. facility address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the FSTRA facility shall be reported in writing to the department within five days of the change of ownership.

1. The license of an FSTRA facility is not transferable or assignable. The license of an FSTRA facility cannot be sold.

2. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

3. An FSTRA facility that is under license suspension, revocation, or denial of renewal may not undergo a CHOW.

E. Any request for a duplicate license shall be accompanied by a \$25 fee.

F. An FSTRA facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshall approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the relocation the facility.

1. Written notice of intent to relocate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. The relocation of the facility's physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 367

§7215. Renewal of License

A. License Renewal Application. The FSTRA facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. a copy of the current on-site inspection with approval for occupancy from the Office of the State Fire Marshal;
3. a copy of the current on-site inspection report with approval of occupancy from the Office of Public Health;
4. proof of financial viability, comprised of the following:
 - a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;
 - b. general and professional liability insurance of at least \$300,000; and
 - c. worker's compensation insurance;
5. the license renewal fee; and
6. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the Forensic Supervised Transitional Client and Aftercare license.

D. The renewal of a license or the denial of a renewal application does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7217. Denial of License, Revocation of License, Denial of License Renewal

A. In accordance with the provisions of the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. deny a license renewal; or
3. revoke a license

B. Denial of an Initial License

1. The department shall deny an initial license when the initial licensing survey finds that the FSTRA facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the clients who will be served by the facility.

2. The department may deny an initial license for any of the reasons in this Chapter that a license may be revoked or non-renewed.

C. Voluntary Non-Renewal of a License

1. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

2. If a provider fails to timely renew its license, the facility shall immediately cease and desist providing services, unless the provider is actively treating clients, in which case the provider shall comply with the following:

- a. immediately provide written notice to the department of the number of clients receiving treatment at the FSTRA facility;
- b. immediately provide written notice to the prescribing physician and to the client or legal representative of the following:
 - i. notice of voluntary non-renewal;
 - ii. notice of closure; and
 - iii. plans for orderly transition of the client(s);
- c. discharge and transition of each client within 15 days of voluntary non-renewal; and
- d. notify the department of the location where records will be stored and the contact person for the records.

3. If an FSTRA facility fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning an FSTRA facility for a period of two years.

D. Revocation of License or Denial of License Renewal. An FSTRA facility license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the FSTRA facility licensing laws, rules and regulations, or with other required statutes, laws, ordinances, rules, or regulations;
2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's office, any regulatory agency, or any law enforcement agency;
3. failure to uphold clients' rights whereby deficient practices result in harm, injury, or death of a client;
4. negligent or harmful failure to protect a client from a harmful act of an employee or other client including, but not limited to:
 - a. mental or physical abuse, neglect, exploitation, or extortion;
 - b. any action posing a threat to a client's health and safety;
 - c. coercion;
 - d. threat or intimidation;
 - e. harassment; or
 - f. criminal activity;
5. failure to notify the proper authorities, as required by federal or state law, rules or regulations, of all suspected cases of:
 - a. mental or physical abuse, neglect, exploitation, or extortion;
 - b. any action posing a threat to a client's health and safety;
 - c. coercion;
 - d. threat or intimidation;

- e. harassment; or
 - f. criminal activity;
6. knowingly making a false statement in any of the following areas, including but not limited to:
- a. application for initial license or renewal of license;
 - b. data forms;
 - c. clinical records, client records or facility records;
 - d. matters under investigation by the department or the Office of the Attorney General; or
 - e. information submitted for reimbursement from any payment source;
7. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;
8. the use of false, fraudulent or misleading advertising;
9. fraudulent operation of an FSTRA facility by the owner, administrator, manager, member, officer or director;
10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court. For purposes of these provisions, conviction of a felony includes a felony relating to any of the following:
- a. violence, abuse, or negligence of a person;
 - b. misappropriation of property belonging to another person;
 - c. cruelty, exploitation, or sexual battery of a person with disabilities;
 - d. a drug offense;
 - e. crimes of sexual nature;
 - f. a firearm or deadly weapon;
 - g. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;
11. failure to comply with all reporting requirements in a timely manner as required by the department;
12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or clients;
13. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel; or
14. cessation of business or non-operational status.

E. If an existing FSTRA facility has been issued a notice of license revocation or suspension and the provider's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

F. If an FSTRA facility license is revoked or renewal is denied, (other than for cessation of business or non-operational status) any owner, officer, member, director, manager, or administrator of such FSTRA facility may be prohibited from opening, managing, directing, operating, or owning another FSTRA facility for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7219. Notice and Appeal of License Denial, License Revocation and License Non-Renewal and Appeal of Provisional License

A. Notice of a license denial, license revocation or license non-renewal shall be given to the provider in writing.

B. An FSTRA facility has a right to an informal reconsideration of the license denial, license revocation, or license non-renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The FSTRA facility shall request the informal reconsideration within 10 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the facility will receive written notification of the date of the informal reconsideration.

4. The facility shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or non-renewal, shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the informal reconsideration.

C. An FSTRA facility has a right to an administrative appeal of the license denial, license revocation, or license non-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The FSTRA facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or license non-renewal. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the Bureau of Appeals, the administrative appeal of the license revocation or license non-renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate

threat to the health, welfare, or safety of a client, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation, or non-renewal, shall not be a basis for the administrative appeal.

D. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license revocation, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

1. If the final agency decision is to reverse the license denial, the license non-renewal or the license revocation, the facility's license will be re-instated or granted upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to affirm the license non-renewal or the license revocation, the facility shall discharge any and all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where its records will be stored.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional license to a new FSTRA facility. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license to an existing FSTRA facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

F. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal regarding the deficiencies cited at the follow-up survey.

1. The facility has five calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for informal reconsideration of the follow-up survey findings.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

4. The facility has five calendar days from the receipt of the department's notice of the result of the informal reconsideration to submit a written request for an administrative appeal. If the facility chooses not to request an informal reconsideration, the facility may submit a written request for an administrative appeal within five calendar days of receipt of the notice of the results of the follow-up survey.

G. A facility with a provisional license that expires under the provisions of this Chapter shall cease providing services

and discharge clients unless the Bureau of Appeals issues a stay of the expiration.

1. A stay may be granted by the Bureau of Appeals upon application by the provider at the time the administrative appeal is filed and only:

a. after a contradictory hearing; and

b. upon a showing that there is no potential harm to the clients being served by the facility.

H. If a timely administrative appeal has been filed by a facility with a provisional license that has expired under the provisions of this Chapter, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

1. If the final agency decision is to remove all deficiencies, the facility's license will be reinstated upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7221. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq.

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction may be required by the department for any complaint survey where deficiencies have been cited.

D. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is appropriate, a follow-up survey may not be required. The facility will be notified of any action.

E. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations, for deficiencies and non-compliance with any complaint survey.

F. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. DHH surveyors and staff shall be allowed to interview any provider staff, client, or participant, as necessary or required to conduct the survey.

G. An FSTRA facility which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

H. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

I. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as an administrative review. The facility or complainant shall submit all documentation or information for review for the informal reconsideration, and the department shall consider all documentation or information submitted. There is no right to appear in person at the informal reconsideration of a complaint survey or investigation. Correction of the violation or deficiency shall not be the basis for the reconsideration. The facility and/or the complainant shall be notified in writing of the results of the informal reconsideration.

J. Except as provided in Paragraph K of this Section, the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

K. In those complaints in which the department's Health Standards Section determines that the complaint involves issues that have resulted in, or are likely to result in, serious harm or death to the client, the complainant or the provider may appeal the informal reconsideration findings to the Bureau of Appeals.

1. The written request for administrative appeal shall be submitted to the Bureau of Appeals and must be received within 30 calendar days of the receipt of the results of the informal reconsideration.

2. The hearing before the Bureau of Appeals is limited to the evidence presented at the informal reconsideration, unless the complainant or the facility has obtained additional evidence vital to the issues which he could not have with due diligence obtained before or during the informal reconsideration.

3. The administrative law judge shall only make a determination on the administrative appeal, based on the evidence presented, as to whether or not the complaint investigation or survey was conducted properly or improperly. The administrative law judge shall not have the authority to overturn or delete deficiencies or violations, and shall not have the authority to add deficiencies or violations.

4. If the administrative law judge determines that the complaint investigation or survey was not conducted properly, he shall designate in writing and with specificity the methods by which a re-investigation shall be conducted.

5. No appeal shall lie from a re-investigation upon a prima facie showing that the re-investigation was conducted in accordance with the designations of the administrative law judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7223. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to an FSTRA facility shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and

2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to an FSTRA facility shall be available for disclosure to the public 30 calendar days after the provider submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the provider, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, of the violation, or of the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for license denials, revocations, and non-renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7225. Cessation of Business

A. A facility that intends to close or cease operations shall comply with the following procedure:

1. give 30 days advance written notice to the:

- a. department;
- b. forensic physician; and
- c. ordering court of any conditional release client(s);

2. notify the department of the location where records will be stored and the contact person for the records; and

3. provide for an orderly discharge and transition of all clients admitted to the facility.

B. If an FSTRA facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an FSTRA facility for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter B. Administration and Organization

§7231. Governing Body

A. Each provider shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the program/facility.

B. A provider shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of any officers.

C. When the governing body of a provider is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

E. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter or other organizational documents;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

3. ensure that the provider is adequately funded and fiscally sound;

4. review and approve the provider's annual budget;

5. designate a person to act as administrator and delegate sufficient authority to this person to manage the provider (a sole owner may be the administrator);

6. formulate and annually review, in consultation with the administrator, written policies concerning the provider's philosophy, goals, current services, personnel

practices, job descriptions and fiscal management;

7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);

8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);

9. meet with designated representatives of the department whenever required to do so;

10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the provider; and

11. notify the Health Standards Section in writing at least 30 days prior to any change in ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7233. Policy and Procedures

A. An FSTRA provider shall establish procedures to assure written communication among staff to provide continuity of services to all clients.

B. Direct care employees shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

C. Confidentiality and Security of Files. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

D. A provider shall allow designated representatives of the department, in the performance of their mandated duties, to inspect all aspects of a provider's functioning which

impact on clients and to interview any staff member or client.

1. A provider shall make any information or records that the provider is required to have and any information reasonably related to assessment of compliance with these requirements available to the department.

2. The client's rights shall not be considered abridged by this requirement.

E. Procedures shall address the following.

1. Confidentiality of Records

a. A provider shall maintain the confidentiality of all clients' records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly, or indirectly, to any unauthorized person.

b. A provider may use material from records for teaching and research purposes, if names are deleted and other identifying information is disguised or deleted.

2. Release of Information

a. A provider shall obtain the client's or legal representative's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except to the department.

b. Identifying information may be given to appropriate authorities in cases of an emergency.

c. The provider shall have a procedure by which representatives or family of clients is given an opportunity to receive information about the individual client in care of the facility.

3. Publicity

a. A provider shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients.

b. No client shall be photographed or recorded without the client's prior informed, written consent. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

i. Consent agreements must clearly notify the client of his/her rights under this regulation, must specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution.

ii. Clients are free to revoke such agreements at any time, either orally or in writing.

c. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

F. Personnel Policies. A provider shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, upon offer of employment, to have a health assessment as defined in the provider's policy and procedures.

a. These policies shall, at a minimum, require that the individual has no evidence of active tuberculosis and that staff shall be retested on a time schedule as mandated by the Office of Public Health. Test results dated within one year

prior to the offer of employment are acceptable for initial employment;

4. an employee grievance procedure;
5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done by another staff member, a family member, a client, or any other person; and
6. a written policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter C. Admissions, Transfers and Discharges

§7235. Admissions

A. The facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to the following:

1. the application process and the possible reasons for the rejection of an application;
2. types of clients suitable to the FSTRA facility;
3. services offered and allowed in the facility; and
4. the facility's house rules.

B. Intake Evaluation

1. An intake evaluation shall take place on the first day of admission and shall include the client's:

- a. demographic data;
- b. family information; and
- c. psychiatric and social background.

2. All of the facility's rules and regulations shall be reviewed with the client. A complete clothing inventory shall be completed and the client shall be assigned to a room.

C. Nursing Assessment

1. The nurse shall complete a nursing assessment and review the client's medication(s). The client's medication administration records shall contain a detailed description of the client's:

- a. medication;
- b. dosage(s) of medication;
- c. frequency medications should be taken; and
- d. ability to self-administer medications.

D. Diagnostic Evaluation

1. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the client's situation and reflect the need for services from an FSTRA facility.

2. Each medical evaluation shall include:

- a. diagnoses;
- b. summary of medical findings;
- c. medical history;
- d. mental and physical functional capacity;
- e. prognosis; and
- f. physician's recommendations.

E. An individualized plan of care for each client shall be developed upon admission and shall be revised to include recommended changes in the therapeutic plan. The plan to be followed in the event of emergency situations shall be specified in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7237. Mandatory Transfers and Discharges

A. The administrator/director shall, in coordination with the client, forensic aftercare provider, Community Forensic Service, and state level forensic coordinator (as appropriate), assist in planning and implementing the mandatory transfer or discharge of the client when:

1. the treatment plan goals and objectives are substantially met and a crisis relapse/prevention plan is developed and support systems are in place that allow the client to reside safely in a less restrictive environment;

2. the client's physician certifies that the client's physical condition necessitates transfer to a medical facility or psychiatric condition necessitates transfer to a higher level of care; or

a. In this situation, plans for transfer must be made as soon as possible.

3. the client's condition is such that he or she is:

- a. a danger to self or others; or
- b. is consistently disruptive to the peace and order of the facility, staff services, or other clients.

B. Emergency Discharge. The provider shall immediately report to the Community Forensic Service, probation officer, state level forensic coordinator, and provider(s) of behavioral health services any program violations (i.e. illegal drugs, suspected or confirmed weapon possession or access, gross deterioration of behavior, or non-compliance with medication). The provider in collaboration with the probation officer and community forensic staff, as appropriate, will be responsible for the relocation of the client to an appropriate secure placement.

C. The facility shall initiate outpatient services for the client upon discharge and provide consultation to the client concerning where to obtain necessary medications, resources and follow-up outpatient behavioral health services.

D. Discharge Records

1. The following discharge information shall be recorded in the client's record:

- a. date of discharge;
- b. destination; and,
- c. reason(s) for leaving.

2. Discharge records shall be retained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter D. Participation Requirements

§7241. Assessment, Service Coordination, and Monitoring

A. Once the client is admitted, the FSTRA facility shall conduct an assessment to determine the needs of the client. The assessment shall be kept in the client's record and shall at a minimum, include:

1. the client's interests, likes and dislikes;
2. review of physical health, psycho-social status, and cognitive status and the determination of services necessary to meet those needs;

3. a summary of the client's health needs, if any, including medication, treatment and special diet orders obtained from professionals with responsibility for the client's physical or emotional health;

4. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client or the client's physician;

5. recreational and social activities which are suitable;

6. a plan for handling special emergency evacuation needs, if any; and

7. additional information or documents pertinent to the client's treatment planning, such as guardianship papers, power of attorney, living wills, do not-resuscitate orders, or other relevant medical documents.

B. Within 30 days after admission, the facility, with input from the client, shall develop a service plan using information from the assessment.

C. The service plan shall be responsive to the client's needs and preferences. The service plan shall include:

1. the client's needs;

2. the scope, frequency, and duration of services and monitoring that will be provided to meet the client's needs; and

3. staff/providers responsible for providing the services.

D. The client's service plan shall be revised when a client's condition changes. The revised service plan shall be signed by the client and the designated facility staff.

E. The service plan shall be monitored on an ongoing basis to determine its continued appropriateness and to identify when a client's condition or preferences have changed. A documented review of the service plan shall be made at least every quarter. However, changes to the plan may be made at any time, as necessary.

F. All service plans and reviews shall be signed by the client and facility staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7243. Personal and Supportive Services

A. The facility shall provide adequate services and oversight/supervision, including adequate security measures, around the clock as needed for any client.

B. Medications

1. The provider shall have clear written policies and procedures on medication assistance.

2. The provider shall assist clients in the self-administration of prescription and non-prescription medication as agreed to in their contract or service plan and as allowed by state statute/regulations.

3. Assistance with self-administration of medications shall be limited to the following.

a. The client may be reminded to take his/her medication.

b. The medication regimen, as indicated on the container, may be read to the client.

c. The dosage may be checked according to the container label.

d. The staff may open the medicine container (i.e. bottle, mediset, blister pak, etc.) if the client lacks the ability to open the container.

e. The client may be physically assisted in pouring or otherwise taking medications, so long as the client is

cognitive of what the medication is, what it is for and the need for the medication.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7245. Nutrition

A. The facility shall provide three varied, appetizing meals a day, seven days a week. Meals shall take into account clients' preferences and needs.

B. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more conspicuous places in the facility.

C. The facility shall provide medically prescribed diets as ordered by the client's physician. These menus shall be planned or approved by a registered dietician.

D. The provider shall purchase and provide to the clients only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

E. Staff shall be available in the dining area to provide supervision as needed.

F. Written reports of inspections by the Department of Health and Hospitals, Office of Public Health, Sanitarian Services shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7247. Transportation Requirements

A. The provider shall have the capacity to provide or to arrange transportation for the following:

1. transportation to behavioral health services (i.e., community mental health center or addictive disorder clinic); and

2. all other related medical appointments.

B. The FSTRA facility must:

1. have liability insurance coverage and have proof of such coverage; and

2. conform to all state laws and regulations pertaining to drivers, vehicles and insurance.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number for which the vehicle is designed.

D. Provisions shall be made to accommodate clients who use assistive devices for ambulation.

E. Each vehicle shall be maintained in good repair.

F. If the center contracts with a commercial proprietor for transportation, it shall select one with a good reputation and reliable drivers. All rules established for transportation furnished by the center shall be observed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter E. Client Protection

§7251. Client Rights

A. A provider shall have a written policy on clients' civil rights and the practices of the provider shall assure that no client of a facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the United States solely by reason of status as a client of a facility. A copy of these rights shall be posted conspicuously in the facility.

B. In addition to the basic rights enjoyed by other adults, the provider's written policy on rights shall assure that clients shall be afforded the rights enumerated in R.S. 28:171.

C. The client shall receive, upon admission and during his/her stay, a written statement of the services provided by the facility and the charges for these services.

D. The client shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used.

E. The facility shall ensure that records and other information about the client are kept confidential and released only with a client's expressed written consent or in accordance with Louisiana law.

F. The facility shall ensure that the client:

1. receives a timely response to a request from the administrator/director and/or staff;
2. has access to private telephone communication;
3. is able to send and receive mail promptly and unopened;
4. is notified in writing by the provider when the facility's license status is suspended, revoked or limited, and to be informed of the basis of the licensing agency's action;
5. is allowed to select a health care provider and arrange for the services, at his/her own expense, which are not available through the facility as long as the client remains in compliance with the conditions of his/her admission to the facility;
6. is encouraged and assisted to exercise rights as a citizen;
7. is allowed to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;
8. is fully informed of all client rights and all rules governing client conduct and responsibilities; and
9. is allowed to consult freely with counsel of their choice.

G. Each client shall be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission and when changes occur.

1. Each client's file shall contain a copy of the written acknowledgment which shall be signed and dated by the director or his/her designee, the client and/or representative.

H. A provider shall establish and have written grievance procedures that include, but are not limited to:

1. a formal process to present grievances; and
2. a process to respond to grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter F. Facility Responsibilities

§7255. General Provisions

A. Providers shall comply and show proof of compliance with all relevant standards, regulations and requirements established by state, local, and municipal regulatory bodies. It is the provider's responsibility to secure the approvals from the following entities:

1. DHH, Health Standards Section;
2. Office of Public Health;
3. Office of State Fire Marshal;
4. City Fire Department, if applicable; and
5. the applicable local governing authority (e.g., Zoning, Building Department or Permit Office).

B. The administrator/director or person authorized to act on behalf of the administrator/director shall be accessible to facility staff or designated representatives of DHH at all times.

C. A provider shall have an administrative file that includes:

1. the Articles of Incorporation or certified copies thereof, if incorporated, or partnership documents, if applicable;
2. a current copy of the approved constitution and/or bylaws of the governing body;
3. a current roster of the governing body membership which includes the members' addresses;
4. written policies and procedures approved by the owner/governing body that address the following:
 - a. confidentiality and security of files;
 - b. publicity;
 - c. personnel;
 - d. client's rights;
 - e. grievance procedure;
 - f. safekeeping of personal possessions, if applicable;
 - g. clients' funds, if applicable;
 - h. emergency and evacuation procedures;
 - i. abuse and neglect;
 - j. critical incidents;
 - k. admissions and discharge procedures; and
 - l. medication.
5. the minutes of formal governing body meetings;
6. an organizational chart of the provider;
7. all leases, contracts and purchase-of-service agreements to which the provider is a party, which includes all appropriate credentials;
8. insurance policies:
 - a. every provider shall maintain in force at all times a comprehensive general business insurance policy or policies in an amount adequate to cover all foreseeable occurrences. The insurance shall include coverage for any:
 - i. personal or professional negligence, malpractice or misconduct by facility owners or employees;
 - ii. injuries received by any client while being transported by facility staff or third-party contractors; and
 - iii. injuries sustained by any client while in the facility; and
 - b. the policies shall be without limitations or exclusions of any kind; and

9. copies of Incident/Accident Reports.

D. An FSTRA facility shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment and/or résumé of education, training, and experience;
 2. evidence of a criminal history check prior to an offer of employment, in accordance with state law;
 3. evidence of applicable professional credentials or certifications according to state law;
 4. documentation of Tuberculosis test results and any other provider required medical examinations;
 5. documentation of three reference checks;
 6. annual performance evaluation;
 7. the employee's hire and termination dates;
 8. documentation of orientation and annual training;
- and
9. documentation of a valid driver's license if driving or transporting clients.

E. A provider shall not release an employee's personnel record without the employee's written permission, except as required by state law.

F. A provider shall have a personnel record for each employee to be kept on the premises or at the corporate office. These records shall be made available and accessible to the survey staff within one hour of request by department surveyors.

1. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of in accordance with state laws.

2. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7257. Core Staffing Requirements

A. Each FSTRA facility shall be staffed to properly safeguard the health, safety and welfare of the clients, as required by these regulations. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

B. Administrator/Director

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility.

2. During periods of temporary absence of the administrator/director, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

3. There shall be a responsible staff person designated to be in charge on the premises of the FSTRA facility 24 hours per day.

4. The administrator/director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the facility.

5. The administrator/director shall meet one of the following criteria upon date of hire:

a. possess a bachelor's degree plus one year of administrative experience in the fields of health care, behavioral health services, or forensics;

b. possess an associate's degree plus two years of administrative experience in the fields of health care, behavioral health services, or forensics; or

c. in lieu of a degree, possess six years of administrative experience in health care, behavioral health services, or forensics.

6. Documentation of the administrator/director's qualifications shall be maintained on file at the facility.

C. Nursing Services

1. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses and other staff to provide nursing care to all clients in accordance with the client's treatment plan.

2. Registered Nurse (RN). An FSTRA facility shall employ or contract with at least one RN who is responsible for the overall delivery and supervision of nursing services.

a. The RN must be currently licensed by, and in good standing with, the state of Louisiana and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as an RN.

b. The RN shall:

i. be on-site or available by telephone during the day time hours of the facility;

ii. develop policies and procedures related to the delivery of nursing services; and

iii. provide medication management through administration, supervision, education and training.

3. Licensed Practical Nurse (LPN). An FSTRA facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. The LPN must be currently licensed by, and in good standing with, the state of Louisiana and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as a LPN.

b. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulations.

D. Direct Care Staff

1. An FSTRA facility must ensure that an adequate number of trained direct care staff is available to meet the needs of the clients in accordance with the client's scheduled and unscheduled needs.

2. Direct care staff may include care assistants, activities personnel, or other staff who clearly provide direct care services to clients on a regular basis.

3. Direct care staff shall have the following qualifications:

a. a minimum of a high school diploma and six months of experience working with adults with a serious and persistent behavioral health diagnosis; or

b. two years of experience working with adults with a serious and persistent behavioral health diagnosis.

3. An FSTRA facility shall have at least two direct care staff on duty when there is at least one client at the facility.

4. An FSTRA facility shall demonstrate that sufficient staff are scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the clients. The

provider shall have at a minimum, one direct care staff person to every 15 clients.

5. An FSTRA facility shall not share direct care staff with another licensed facility. (Staff cannot fill two staff positions on the same shift at different licensed facilities.)

E. An FSTRA facility shall maintain a current work schedule for all employees, including relief workers, showing adequate coverage for each day and night.

F. FSTRA facility professional staff shall be licensed and/or certified by, and in good standing with, the state of Louisiana. The license shall be unrestricted. Professional staff must comply with all requirements, including continuing education requirements, as established by law or regulation.

G. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social program of the facility.

H. An FSTRA facility must provide, as needed, consultation(s) with a registered dietician.

I. Staff Orientation and Training

1. During the first week of hire and prior to providing services to clients, the provider shall provide a 20-hour documented orientation including, but not limited to the following:

- a. the policies and procedures of the facility, including program components;
- b. emergency and evacuation procedures;
- c. training in proper fire and emergency safety procedures including:
 - i. CPR;
 - ii. the Heimlich Maneuver;
 - iii. first aid;
 - iv. crisis management; and
 - v. risk reduction;
- d. effective communication skills for forensic, behavioral health clients;
- e. confidentiality and HIPPA requirements;
- f. trainings and intervention programs as deemed appropriate and mutually agreed upon by Community Forensic Services and the state level forensic coordinator;
- g. client's rights; and
- h. procedures and requirements regarding the reporting of abuse, neglect and critical incidents.

2. Orientation for direct care staff shall include an additional five days of supervised training. Training, at a minimum, shall include the following:

- a. training in client care services (ADL'S & IADL'S) provided by the facility;
- b. infection control to include blood borne pathogens;
- c. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses; and
- d. any specialized training to meet clients' needs.

3. A new employee shall not be given sole responsibility for the implementation of a client's program plan until this orientation and training is completed.

a. The staff member shall sign a statement certifying that such training has occurred and this shall be maintained in the staff members personnel file.

4. Orientation and five days of supervised training shall meet the first year's annual training requirements.

5. All direct care staff shall receive certification in adult first aid within the first 30 days of employment.

J. Annual Training

1. A provider shall ensure that each direct care worker participates in in-service training each year. Normal supervision shall not be considered as meeting this requirement.

2. The provider shall document that direct care staff receives training on an annual basis in:

- a. the facility's policies and procedures;
- b. emergency and evacuation procedures;
- c. client's rights;
- d. the procedures and legal requirements concerning the reporting of abuse and critical incidents;
- e. client care services (ADL'S & IADL'S);
- f. infection control to include blood borne pathogens; and
- g. any other areas that may require specialized training to meet clients' needs.

3. All direct care staff shall have documentation of current certification in first aid.

4. The administrator/director shall participate annually in at least 12 hours of continuing education in the field of behavioral health and specialized training in the population served and/or supervisory/management techniques.

5. Each employee shall sign a statement of understanding certifying that annual training has occurred.

K. An employee's Annual Performance Evaluation shall include his/her interaction with clients, family, staff, and other providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7259. Client Records

A. An FSTRA facility shall maintain a separate record for each client. Such records shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

B. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

C. The facility shall have sufficient space, facilities, and supplies for providing effective record keeping services.

D. The facility shall have a storage area that ensures the safeguarding of all client records and prevents loss from, including but not limited, to fire or water.

E. Each record shall contain at least the following information:

1. the client's identifying and personal information including:
 - a. the client's name;
 - b. date of birth;
 - c. sex;
 - d. Social Security number;
 - e. previous home address; and
 - f. marital status, if applicable;
2. dates of admission and discharge;
3. names, addresses, and telephone numbers of responsible persons to be notified in case of accident, death or other emergency;

4. name, address, and telephone number of a physician and dentist to be called in an emergency;

5. ambulatory status;

6. the client's plan/authorization for routine and emergency medical care, as required;

7. the client's written authorization for a representative and their name, address and telephone number, if applicable;

8. the pre-admission assessment by a forensic physician and admission agreement;

9. findings of the assessment and any special problems or precautions identified;

10. the service plan, updates, and quarterly reviews;

11. continuing record of any illness, injury or medical or dental care when it impacts the client's ability to function or the services he/she needs;

12. a record of all personal property and funds which the client has entrusted to the facility;

13. reports of any client complaints or grievances and the conclusion or disposition of these reports;

14. incident reports; and

15. written acknowledgments that the client has received clear verbal explanations and:

a. copies of his/her rights and the house rules;

b. written procedures for safekeeping of valuable personal possessions of clients; and

c. a written statement explaining the client's rights regarding personal funds and the right to examine his/her record.

F. All information and records obtained from or regarding clients shall be stored and kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7261. Abuse and Neglect

A. The provider shall have comprehensive written procedures concerning client abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. ensuring that regulations stipulated in this rule for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator/director completes an investigation report within 10 working days;

4. ensuring that the client is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect clients; and

6. protecting clients from abuse inflicted by other clients or third parties, including but not limited to, criminal prosecution of the offending person and his/her permanent removal from the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31 – 28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7263. Critical Incidents

A. A provider shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or

well-being of a client(s) (i.e. death by unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as part of the client's record and a separate copy shall be kept in the administrative file of the provider.

B. Incident/Accident Report. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall provide documentation of the following:

1. the circumstances under which the incident occurred;

2. the date and time the incident occurred;

3. the location where the incident occurred (bathroom, bedroom, street, lawn, etc.);

4. immediate treatment and follow-up care;

5. the names and addresses of witnesses;

6. the date and time the family or representative was notified;

7. any symptoms of pain and injury discussed with the physician; and

8. the signatures of the staff completing the report, client, and director.

C. When an incident results in the death of a client, involves abuse or neglect of a client or entails any serious threat to the client's health, safety or well-being, a provider shall:

1. immediately report the incident verbally to the Administrator and submit a preliminary written report within 24 hours of the incident;

2. immediately notify the Department of Health and Hospitals, Health Standards Section, and other appropriate authorities in accordance with state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

3. immediately notify the family or the client's representative, with written notification to follow within 24 hours;

4. immediately notify the appropriate law enforcement authority in accordance with state law;

5. provide follow-up written reports to all of the persons and agencies identified in this §7261.C;

6. take appropriate corrective action to prevent future incidents; and

7. document its compliance with all of the above procedures for each incident and shall keep such documentation (including any written reports or notifications) in the client's file. A separate copy of all such documentation shall be kept in the provider's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7265. Personal Possessions

A. An FSTRA facility may, at its discretion, offer to clients the service of safekeeping their valuable possessions. The facility shall have a written statement of its policy.

B. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

C. The facility shall give the client a receipt listing each item that it is holding in trust for the client. A copy of the receipt shall be placed in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31 – 28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7267. Client Funds

A. The facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any.

B. The provider shall offer safekeeping and management of a client's funds. If a client chooses to entrust funds with the provider, the provider shall obtain written authorization from the client and/or his/her representative for the safekeeping and management of the funds.

C. The provider shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the facility is holding in trust for the client;

2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;

3. provide a list or account statement regarding personal funds upon request of the client;

4. maintain a copy of each quarterly account statement in the client's record;

5. keep the funds received from the client in a separate interest-bearing account; and

6. not commingle the clients' funds with the facility's operating account.

D. The facility shall have and implement written policies and procedures to protect client funds.

E. Unless otherwise provided by state law, upon the death of a client, the provider shall provide the executor or administrator of the client's estate or the client's representative, as agreed upon in the admission agreement, with a complete account statement of the client's funds and personal property of the client being held by the provider.

F. A client with a personal fund account managed by an FSTRA facility may sign an account agreement acknowledging that any funds deposited into the personal account by, or on the client's behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement must state that:

1. the funds in the account shall be jointly owned with the right of survivorship;

2. the funds in the account shall be used by, for or on behalf of the client;

3. the client or the joint owner may deposit funds into the account; and

4. the client or joint owner may endorse any check, draft or other monetary instrument to the order of any joint owner, for deposit into the account.

G. If a valid account agreement has been executed by the client, upon the client's death, the facility shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death. This provision only applies to personal fund accounts not in excess of \$2,000.

H. If a valid account agreement has not been executed, upon the client's death, the facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased. The facility shall abide by the procedures of the Louisiana Department of the Treasury and the Louisiana Uniform Unclaimed Property Act for the handling of funds of a deceased client that remain unclaimed.

I. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7269. Contraband

A. There shall be no contraband, illegal drugs, or controlled dangerous substances that are not prescribed to a client on the campus of the facility. Clients may be subjected to random periodic drug testing as a requirement for residency at the facility. A positive drug test will be reported to the attending psychiatrist and the applicable court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter G. Safety and Emergency Preparedness

§7271. General Provisions

A. An FSTRA facility shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the clients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, the department and the Office of the State Fire Marshal.

B. At a minimum, the emergency preparedness plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bioterrorism, weapons of mass destruction, labor work stoppage or industrial or nuclear accidents;

2. emergency procedures for evacuation of the facility;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of clients;

4. identification of the facility and an alternate facility to which evacuated clients would be relocated;

5. the estimated number of clients and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany clients in the event of a client evacuation

and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. An FSTRA facility shall conduct and document fire drills once per month, one drill per shift every 90 days, at varying times of the day.

D. An FSTRA facility shall immediately notify the Health Standards Section and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

E. The facility shall have access to 24-hour telephone service, and shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

F. General Safety Practices

1. The facility shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of clients, staff and visitors.

3. The facility shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter H. Physical Environment

§7275. General Provisions

A. Location

1. The area to be licensed as an FSTRA facility shall meet all of the licensing regulations established for FSTRA facilities.

2. An FSTRA facility that is located within any other facility shall be secure and have its own identifiable staff, space and storage. The FSTRA facility shall have a separate entrance, separate dining area and separate common areas.

B. General Appearance and Conditions

1. Heating, cooling and ventilation systems shall permit comfortable conditions.

2. Furniture in good repair shall be available to facilitate usage by the number of clients in the facility.

3. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.

4. The facility shall be flexible and adaptable for large and small groups and individual activities and services.

5. There shall be sufficient office space to permit staff to work effectively and without interruption.

6. There shall be adequate storage space for program and operating supplies.

C. Interior Space

1. Floors and steps shall have a non-slippery surface and be dry when in use by the clients.

2. Doorways and passageways shall be kept clear to allow free and unhindered passage.

3. The facility shall provide an appropriate controlled-egress system on all required exit doors and doors leading to other areas of the facility unless prior approval of an alternative method for prevention of client elopement from the facility has been obtained from the authority (Office of the State Fire Marshal) having jurisdiction over such matters.

4. All staff shall have a key to locked exit doors.

5. All operable windows shall be equipped with a mechanism to limit exterior openings to prevent elopement.

6. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.

7. The facility shall be constructed, equipped, and maintained in good repair and kept free of hazards.

8. The facility shall have sufficient storage space for administration records, locked areas for medications, cleaning supplies (janitorial), food service (supplies) and lawn maintenance (equipment).

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility.

10. The facility shall have an effective pest control program. Pest control services may be provided by maintenance personnel of the facility or by contract with a pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

11. The facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records and manuals.

D. Bedrooms

1. Single rooms must contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. An existing state hospital that converts a building, unit or wing to an FSTRA facility shall contain a minimum of 65 square feet per bed in a multi-bed room.

2. Any client room shall not contain more than four beds.

a. Beds shall be of solid construction, appropriate to the size and age of the client and have a clean, comfortable, non-toxic fire-retardant mattress that fits the bed.

b. Cots or other portable beds are to be used in emergencies only.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

a. In a room with varying ceiling heights, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least three feet between beds.

5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of clients.

6. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

7. The provider shall not use any room that does not have a window as a bedroom space.

8. The facility shall provide sheets, pillows, bedspreads and blankets that are in good repair for each client. Linens not in good repair shall not be used.

9. Each client shall have his/her own dresser or other adequate storage space for private use and designated space

for hanging clothing in proximity to the bedroom occupied by the client.

10. The facility shall not have male and female clients at the same location.

E. Bathrooms

1. The number of toilets and hand-washing facilities shall be not less than one for each 13 clients.

2. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs.

3. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

a. Clients shall be provided individual items such as hair brushes and toothbrushes.

5. Tubs and showers shall have slip proof surfaces.

6. An FSTRA facility shall have toilets and baths or showers that allow for individual privacy, unless the clients in care require assistance.

7. Toilets, wash basins and other plumbing or sanitary facilities in an FSTRA facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

8. The facility shall have separate toilet facilities for staff.

F. Furnishings

1. The facility shall be furnished so as to meet the needs of the clients. All furnishings and equipment shall be kept clean and in good repair.

2. Adequate furniture shall be available and shall be appropriate for use by the clients in terms of comfort and safety.

3. Furnishings must include tables and chairs sufficient in number to serve all clients.

G. Kitchen

1. An FSTRA facility that has a kitchen area shall meet all health and sanitation requirements and must be of sufficient size to accommodate meal preparation for the proposed number of clients.

2. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving and storage and clean up of all meals regularly served to all of the clients and staff. All equipment shall be maintained in proper working order.

3. An FSTRA facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. The facility shall maintain logs of temperatures of the refrigerator and freezers. Abnormal temperatures shall be reported to management and arrangements made for repair/service.

4. The facility shall ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects and are in sufficient number to accommodate all clients.

5. If food is prepared in a central kitchen and delivered to the facility, provisions shall be made and approved by the Department of Health and Hospitals, Office of Public Health, Sanitarian Services for proper maintenance of food temperatures and a sanitary mode of transportation.

H. Medication Storage and Monitoring

1. The facility shall have policies and procedures for the storage, administration and disposal of both prescription and over-the-counter medications.

2. There shall be a designated secure area for the storage and preparation of medications.

3. Medications that require refrigeration shall be stored in a separate refrigerator (not with food, beverages, etc.).

4. The FSTRA shall have a process for monitoring the inventory and reconciliation of controlled substances. The process shall include the reporting of lost or missing medications in accordance with the Louisiana State Board of Pharmacy.

5. Medications may be administered from a central area of the facility.

I. Laundry

1. An FSTRA facility shall provide for laundry services, either on-site or at an off-site location that is adequate to handle the needs of the clients.

2. If on-site, laundry facilities shall be located in a specifically designated area and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material.

3. Laundry rooms shall not open directly into client common areas or food service areas.

4. Domestic washers and dryers that are for the exclusive use of clients may be located in client areas, provided they are installed in such a manner that they do not cause a sanitation problem.

J. Water Supply

1. An adequate supply of water, under pressure, shall be provided at all times.

2. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

3. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall meet the requirements set forth under the rules and regulations of the Office of Public Health (OPH).

4. The facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water.

K. All sewage shall be disposed of by means of either:

1. a public system where one is accessible within 300 feet; or

2. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

L. Facility Exterior

1. The provider shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety.

2. All structures on the grounds of the facility shall be maintained in good repair.

3. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

4. Fences shall be in good repair and constructed in such a way as to provide security.

5. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

6. Clients shall have access to safe, suitable outdoor recreational space.

7. The facility shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter I. Secure Community Supervised Transitional/Residential Facility Module

§7279. General Provisions

A. Providers applying for the Secure Community Supervised Transitional/Residential (SCSTR) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure community supervised transitional/residential facility is a secure residential facility within the community that provides individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospitals or state forensic psychiatric unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7281. Operational Requirements

A. Staff Requirements

1. The FSTRA-SCSTR facility shall provide 24-hour, seven day per week "supervision" consisting of at least three direct care staff persons during the day, one of which must be a licensed nurse and at least two awake staff during the night.

2. The FSTRA-SCSTR facility shall have a licensed nurse on call when there are no licensed nurses on duty at the facility.

B. Admissions. The SCSTR facility shall:

1. only accept clients referred by DHH state forensic facilities or those who are under a court-ordered forensic conditional release;

2. admit only those clients who have the ability to self administer medications and provide for their own personal care needs;

3. not admit more clients into care than the number specified on the FSTRA facility's license; and

4. provide contact information, including the telephone number and mailing address, for the appropriate state protection and advocacy organization.

C. Medication Administration

1. The facility shall have clear written policies and procedures on medication self-administration.

2. The facility shall assist clients in the self-administration of prescriptions and non-prescription medication according to the client's service plan and as allowed by state laws and regulations.

3. Assistance with self-administration of medication shall be limited to the following:

a. the client may be reminded to take his/her medication;

b. the medication regimen, as indicated on the container, may be read to the client;

c. the dosage may be checked according to the container label;

d. staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the client lacks the ability to open the container; and

e. the client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for, and the need for the medication.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

5. Medications shall be stored in a secure central location and not stored in the client's own room.

6. The facility may require the clients to come to a "medication" area to take their medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter J. Secure Forensic Facility Module

§7285. General Provisions

A. Providers applying for the Secure Forensic (SF) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure forensic facility is a secure residential facility located on the grounds of a state hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit, in order to prepare such persons for transition to a less restrictive environment before transitioning to the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§7287. Operational Requirements

A. The SF facility shall provide 24-hour, seven day per week "supervision" consisting of at least three direct care staff persons during the day and two awake staff during the night. There shall be at least two direct care staff persons in each building and/or unit at all times when clients are present.

1. The SF facility shall have an RN on duty during the day shift to oversee the nursing services of the facility.

2. The SF facility shall have at least one licensed nurse on duty for each shift.

3. The SF Facility shall provide for, either directly or through contract, a medical doctor on call.

B. Admission

1. The SF facility shall:

a. admit clients who are under a court order or court ordered forensic conditional release and who are referred by a DHH state forensic facility;

b. not admit more clients into care than the number specified on the FSTRA facility's license; and

c. provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

C. Client Services

1. The facility shall provide or coordinate, to the extent needed or desired by clients, the following services:

a. assistance with activities of daily living and all instrumental activities of daily living;

b. medication administration;

c. opportunities for individual and group socialization;

d. services for clients who have behavior problems requiring ongoing staff support, intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;

e. household services essential for the health and comfort of clients (e.g. floor cleaning, dusting, bed making, etc.);

g. basic personal laundry services; and

h. a program of recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#121

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Home and Community-Based Services Waivers
Adult Day Health Care
(LAC 50:XXI.2103, 2107, 2301, 2503 and 2915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXI.2103, §2107, §2301, §2503, and §2915 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., 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 Aging and Adult Services amended the provisions governing the Adult Day Health Care (ADHC) Waiver to redefine and clarify the provisions of the waiver relative to the target population, the request for services registry, the comprehensive plan of care, and support coordination services (*Louisiana Register*; Volume 34, Number 10). The October 20, 2008 Rule also amended the provisions governing the reimbursement methodology to reduce the comprehensive ADHC rate paid to providers as a result of adding support coordination as a separate service since these services were traditionally reimbursed as part of the comprehensive ADHC rate. These provisions were repromulgated by the department in December 2008 to correct an error of omission in the publication (*Louisiana Register*; Volume 34, Number 12).

The department now proposes to amend the Rule governing the ADHC Waiver to revise the provisions governing: 1) the program description; 2) the allocation of waiver opportunities; and 3) the provision of services and discharge criteria. This action is being taken to avoid federal sanctions for noncompliance with federal requirements for the provision of waiver services. It is anticipated that implementation of this Emergency Rule will not have a fiscal impact in the Medicaid Program for state fiscal year 2010-2011.

Effective January 1, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Adult Day Health Care Waiver.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers**

Subpart 3. Adult Day Health Care

Chapter 21. General Provisions

§2103. Program Description

A. An Adult Day Health Care Waiver program expands the array of services available to individuals with functional impairments, and helps to bridge the gap between independence and institutional care by allowing them to remain in their own homes and communities. This program provides direct care for individuals who have physical, mental or functional impairments. ADHC waiver participants must attend a minimum of 36 days per calendar quarter, absent extenuating circumstances. Exceptions for extenuating circumstances must be approved by the assigned support coordinator based upon guidance provided by OAAS.

B. - C.6. ...

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 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2161 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§2107. Programmatic Allocation of Waiver Opportunities

A. ...

B. Adult Day Health Care Waiver opportunities shall be offered to individuals on the registry according to priority groups. The following groups shall have priority for ADHC Waiver opportunities in the order listed:

1. individuals with substantiated cases of abuse or neglect with Adult Protective Services (APS) or Elderly Protective Services (EPS) and who, absent ADHC Waiver services, would require institutional placement to prevent further abuse and neglect;

a. - c. Repealed.

2. individuals who have been discharged after a hospitalization within the past 30 days that involved a stay of at least one night;

3. individuals presently residing in nursing facilities for 90 or more continuous days; and

4. all other eligible individuals on the Request for Services Registry (RFSR), by date of first request for services.

C. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified and the process continues until an individual is determined eligible. An ADHC Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Chapter 23. Services

§2301. Covered Services

A. ...

1. Adult Day Health Care. ADHC services are a planned, diverse daily program of individual services and group activities structured to enhance the recipient's physical functioning and to provide mental stimulation. Services are furnished on a regularly scheduled basis. An adult day health care center shall, at a minimum, furnish the following services:

a. - j. NOTE. ...

2. Support Coordination. These services assist participants in gaining access to necessary waiver and other State Plan services, as well as medical, social, educational and other services, regardless of the funding source for these services. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the recipient's approved Plan of Care (POC). This is a mandatory service.

A.3. - B. ...

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 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Chapter 25. Admission and Discharge Criteria

§2503. Denial or Discharge Criteria

A. Admission shall be denied or the recipient shall be discharged from the ADHC Waiver Program if any of the following conditions are determined.

1. - 7. ...

8. The participant fails to attend the ADHC Center for a minimum of 36 days per calendar quarter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Chapter 29. Reimbursement

§2915. Provider Reimbursement

A. - C. ...

D. Support Coordination Services Reimbursement. Support coordination services previously provided by ADHC providers and included in the rate, including the Minimum Data Set Home Care (MDS/HC), the CPOC and home visits will no longer be the responsibility of the ADHC provider. Support coordination services shall be provided as a separate service covered in the ADHC Waiver. As a result of the change in responsibilities, the rate paid to ADHC providers shall be adjusted accordingly.

1. - 2. ...

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 Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2575 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#124

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Home and Community-Based Services Waivers Children's Choice Allocation of Waiver Opportunities (LAC 50:XXI.11107)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amends LAC 50:XXI.11107 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., 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 and the Office for Citizens with Developmental Disabilities adopted provisions in the Children's Choice Waiver for the allocation of additional waiver opportunities for the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver to provide for the allocation of waiver opportunities for children who have been identified by the Office for Citizens with Developmental Disabilities regional offices and human services authorities and districts as meeting state-funded family support criteria for priority level 1 and 2, and needing more family support services than what is currently available through state-funded family support services (*Louisiana Register*, Volume 36, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2010 Emergency Rule.

This action is being taken to secure enhanced federal funding. It is estimated that implementation of this Emergency Rule will result in an increase in expenditures in the Children's Choice Waiver Program by approximately \$2,270,233 for state fiscal year 2010-2011.

Effective January 19, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the allocation of opportunities in the Children's Choice Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 111. General Provisions

§11107. Allocation of Waiver Opportunities

A. The order of entry in the Children's Choice Waiver is first come, first served from a statewide list arranged by date of application for the Developmental Disabilities Request for Services Registry for the New Opportunities Waiver. Families shall be given a choice of accepting an opportunity in the Children's Choice Waiver or remaining on the DDRFSR for the NOW.

1. The only exceptions to the first come, first served allocation of waiver opportunities shall be for the:

a. Money Follows the Person Rebalancing Demonstration waiver opportunities which are allocated to demonstration participants only; and

b. waiver opportunities which are allocated to children who have been determined to need more services than what is currently available through state funded family support services.

B. - B.1.b. ...

C. Four hundred twenty-five opportunities shall be designated for qualifying children with developmental disabilities that have been identified by the Office for Citizens with Developmental Disabilities (OCDD) regional offices and human services authorities and districts as needing more family support services than what is currently available through state funded family support services.

1. To qualify for these waiver opportunities, children must:

a. be under 18 years of age;

b. be designated by the OCDD regional office, human services authority or district as meeting priority level 1 or 2 criteria;

c. be Medicaid eligible;

d. be eligible for state developmental disability services; and

e. meet the ICF/DD level of care.

2. Each OCDD regional office and human services authority or district shall be responsible for the prioritization of these opportunities. Priority levels shall be defined according to the following criteria:

a. Priority Level 1. Without the requested supports, there is an immediate or potential threat of out-of-home placement or homelessness due to:

i. the individual's medical care needs;

ii. documented abuse or neglect of the individual;

iii. the individual's intense or frequent challenging behavioral needs; or

iv. death or inability of the caregiver to continue care due to their own age or health; or

v. the possibility that the individual may experience a health crisis leading to death, hospitalization or placement in a nursing facility.

b. Priority Level 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing any of their independence or productivity.

3. Children who qualify for one of these waiver opportunities are not required to have a protected request date on the Developmental Disabilities Request for Services Registry.

4. Each OCDD regional office, human services authority and district shall have a specific number of these opportunities designated to them for allocation to waiver recipients.

6. In the event one of these opportunities is vacated, the opportunity shall be returned to the allocated pool for that particular OCDD regional office, human services authority or district for another opportunity to be offered.

7. Once all of these opportunities are filled, supports and services, based on the priority determination system, will be identified and addressed through other resources

currently available for individuals with developmental disabilities.

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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#122

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Home and Community-Based Services Waivers
Children's Choice

Service Cap and Reimbursement Rate Reduction
(LAC 50:XXI.11301 and 12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.11301 and §12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the Children's Choice Waiver in order to reduce the reimbursement rates, and to amend the provisions governing family training to clarify the service description and the components of the service that qualify for Medicaid

reimbursement (*Louisiana Register*, Volume 36, Number 10).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Children's Choice Waiver to reduce the service cap and to further reduce the reimbursement rates paid for waiver services (*Louisiana Register*, Volume 36, Number 8). The department subsequently amended the provisions of the August 1, 2010 Emergency Rule governing the service cap in order to revise the effective date of the service cap reduction (*Louisiana Register*, Volume 36, Number 9). The department now proposes to amend the provisions of the September 1, 2010 Emergency Rule to revise the formatting of LAC 50:XXI.12101 as a result of the promulgation of the October 20, 2010 final Rule. This action is being taken to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective December 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions of the September 1, 2010 Emergency Rule governing the reimbursement methodology for Children's Choice Waiver services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 9. Children's Choice

Chapter 113. Services

§11301. Service Cap

A. - B. ...

C. Effective September 1, 2010, Children's Choice Waiver services are capped at \$16,660 per individual per plan of care year.

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 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2440 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. - C.1. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for Children's Choice Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following items shall be excluded from the rate reduction:

- a. environmental accessibility adaptations;
- b. family training services; and
- c. support coordination 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 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR

34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#125

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Home Health Program—Extended Nursing Services Reimbursement Rate Reduction (LAC 50:XIII.701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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 amended the provisions governing the reimbursement methodology for nursing services covered in the Home Health Program to increase the reimbursement rates paid for extended nursing services (*Louisiana Register*, Volume 34, Number 4).

Due to a budgetary shortfall in state fiscal year 2011, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for nursing services covered in the Home Health Program in order to reduce the reimbursement rates paid for extended nursing services. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce

expenditures in the Medicaid Program by approximately \$313,132 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for extended nursing services in the Home Health Program to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health

Subpart 1. Home Health Services

Chapter 7. Reimbursement Methodology

§701. Nursing and Home Health Aide Services

A. - B.3. ...

C. Effective for dates of service on or after December 1, 2010, the reimbursement rates for extended nursing services shall be reduced by 2 percent of the rates in effect on November 30, 2010.

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 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2281 (October 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#019

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services Non-Rural, Non-State Hospitals Children’s Specialty Hospitals (LAC 50:V.909)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.909 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., 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 adopted provisions which established the prospective reimbursement

methodology for inpatient services provided in private (non-state) acute care general hospitals and implemented prospective per diem rates for various hospital peer groups (*Louisiana Register*, Volume 20, Number 6). Separate peer group payment rates were established for certain specialty hospital services rendered in the general acute care setting. Children's hospitals were categorized as a specialty hospital within the acute care general hospital peer group.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the June 1994 Rule governing inpatient hospital services to revise the qualifying criteria and reimbursement methodology for children's specialty hospitals (*Louisiana Register*, Volume 35, Number 9). The provisions of the September 1, 2009 Emergency Rule governing the reimbursement methodology for children's specialty hospitals were published in a final Rule on November 20, 2010 (*Louisiana Register*, Volume 36, Number 11). The department now proposes to amend the provisions of the September 1, 2009 Emergency Rule to revise the formatting of these provisions as a result of the promulgation of the November 20, 2010 final Rule. This action is being taken to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective December 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the September 1, 2009 Emergency Rule governing the reimbursement methodology for inpatient hospital services rendered by children's specialty hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter A. General Provisions

§909. Children's Specialty Hospitals

A. In order to receive Medicaid reimbursement for inpatient services as a children's specialty hospital, the acute care hospital must meet the following criteria:

1. be recognized by Medicare as a prospective payment system (PPS) exempt children's specialty hospital;
2. does not qualify for Medicare disproportionate share hospital payments; and
3. has a Medicaid inpatient days utilization rate greater than the mean plus two standard deviations of the Medicaid utilization rates for all hospitals in the state receiving Medicaid payments.

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, Bureau of Health Services Financing, LR 37:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Major Teaching Hospitals
(LAC 50:V.1333)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.1333 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., 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 amended the provisions governing the reimbursement methodology for inpatient hospital services to provide for a supplemental Medicaid payment to non-rural, non-state acute care hospitals for having a Medicaid inpatient utilization greater than 30 percent and teaching hospitals for furnishing additional graduate medical education services as a result of the suspension of training programs at the Medical Center of Louisiana at New Orleans due to the impact of Hurricane Katrina (*Louisiana Register*, Volume 34, Number 5). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to provide a supplemental Medicaid payment to acute care hospitals designated as major teaching hospitals to facilitate the development of public-private collaborations in order to preserve access to medically necessary services for Medicaid recipients (*Louisiana Register*, Volume 35, Number 10). The department amended the provisions of the October 1, 2009 Emergency Rule in order to revise which fiscal year's claims data the quarterly payments will be based on (*Louisiana Register*, Volume 36, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective January 17, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals designated as major teaching hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 13. Teaching Hospitals

Subchapter B. Reimbursement Methodology

§1333. Major Teaching Hospitals

A. Effective for dates of service on or after October 1, 2009, a quarterly supplemental payment shall be issued to

qualifying non-rural, non-state acute care hospitals for inpatient services rendered during the quarter. These payments shall be used to facilitate the development of public-private collaborations to preserve access to medically necessary services for Medicaid recipients. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must:

a. be designated as a major teaching hospital by the department in state fiscal year 2009;

b. have provided at least 25,000 Medicaid acute care paid days for state fiscal year 2008 dates of service; and

c. have provided at least 4,000 Medicaid distinct part psychiatric unit paid days for state fiscal year 2008 dates of service.

2. Payments shall be distributed quarterly and shall be calculated using the Medicaid paid days for service dates in state fiscal year 2009 serving as a proxy for SFYs 2010 and 2011 service dates.

3. Payments are applicable to Medicaid service dates provided during each quarter and shall be discontinued for the remainder of the state fiscal year in the event that the maximum payment cap is reached or by June 30, 2011, whichever occurs first.

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, Bureau of Health Services Financing, LR 37:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is 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.

Bruce D. Greenstein
Secretary

1012#123

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services Non-Rural, Non-State Hospitals Outlier Payment Methodology (LAC 50:V.954)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.954 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other

measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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 repromulgated all of the provisions governing outlier payments for inpatient hospital services in a codified format for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 36, Number 3)*.

Due to a budgetary shortfall in state fiscal year 2011, the department has determined that it is necessary to amend the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals in order to revise the outlier payment methodology. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$7,417,123 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to revise the provisions governing outlier payments made to non-rural, non-state hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§954. Outlier Payments

A. - A.2. ...

B. The marginal cost for outlier payments is considered to be hospital cost for an inpatient stay in excess of the sum of the hospital's prospective payment and any other payment made on behalf of the patient for that stay by any other payee.

1. Cost is defined as the hospital-specific cost to charge ratio based on the hospital's cost report period ending in state fiscal year 2008 (July 1, 2007 through June 30, 2008) multiplied by the total billed charges for an outlier claim.

2. For new hospitals and hospitals that did not provide Medicaid Neonatal Intensive Care Unit (NICU) services in state fiscal year 2008, the hospital-specific cost to charge ratio will be calculated based on the first full year cost reporting period that the hospital was open or that Medicaid NICU services were provided.

C. ...

D. Outlier payments to hospitals shall be made annually on a date not later than the end of the second quarter of each state fiscal year for those qualifying outlier claims submitted for dates of service in prior state fiscal years. If an outlier claim submission with dates of service in a prior state fiscal year is received by the department after the last day of November, it will not be considered for payment until the following state fiscal year.

1. Payments for prior state fiscal years shall be adjusted annually if the department receives subsequent qualifying outlier claims with dates of service in a prior state

fiscal year for which outlier payments have already been made.

2. The hospital-specific cost to charge ratio shall be reviewed bi-annually and may be updated according to the current cost report data at the discretion of the secretary.

E. Effective for dates of service on or after December 1, 2010, if covered charges for each individual case, as defined in §954.A, exceeds both \$250,000 and 200 percent of the prospective payment, reimbursement shall be the lesser of 65 percent of the hospital's marginal cost for the claim or a pro rata share of the annual amount of claims submitted by all hospitals, multiplied by the total amount authorized for outlier payments for that state fiscal year (July 1 through June 30).

F. For dates of service in the period December 1, 2010 through June 30, 2011 inclusive, the amount authorized for outlier payments is \$17,500,000. For dates of service in state fiscal year 2012 and subsequent years, the amount authorized is \$30,000,000 for each state fiscal year.

G. Outlier payments are not payable for transplant procedures.

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, Bureau of Health Services Financing, LR 36:519 (March 2010), amended LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Reduction
(LAC 50:V.953, 955, 959 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V. 953,955,959 and 967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not

limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year (SFY) 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 11). The November 20, 2010 Rule also amended the reimbursement methodology for inpatient hospital services to establish a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients.

As a result of a budgetary shortfall in SFY 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule also amended the provisions governing the appeals procedure that address the criteria for qualifying loss. The department promulgated an Emergency Rule which amended the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:V.953, §955, §959 and §967 as a result of the promulgation of the November 20, 2010 final Rule governing inpatient hospital services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for inpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$5,917,842 for state fiscal year 2010-2011.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates 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 and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - O.1. ...

P. Effective for dates of service on or after August 1, 2010, the inpatient per diem rate paid to acute care hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

Q. Effective for dates of service on or after December 1 2010, the inpatient per diem rate paid to acute care hospitals shall be reduced by 2 percent of the per diem rate on file as of November 30, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

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 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552(July 2010), LR 36:2561 (November, 2010), LR 37:

§955. Long Term Hospitals

A. - F. ...

G. Effective for dates of service on or after August 1, 2010, the inpatient per diem rate paid to long term hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

H. Effective for dates of service on or after December 1, 2010, the inpatient per diem rate paid to long term hospitals shall be reduced by 2 percent of the per diem rate on file as of November 30, 2010.

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: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November, 2010), LR 37:

§959. Inpatient Psychiatric Hospital Services

A. - H. ...

I. Effective for dates of service on or after August 1, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

J. Effective for dates of service on or after December 1, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be reduced by 2 percent of the per diem rate on file as of November 30, 2010.

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 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November, 2010), LR 37:

§967. Children's Specialty Hospitals

A. - E. ...

1. Medicaid supplemental payments related to high cost Medicaid and graduate medical education supplemental payments shall be included as an interim Medicaid inpatient payment in the determination of cost settlement amounts on the filed cost report.

F. Effective for dates of service on or after February 3, 2010, the per diem rates as calculated per §967.A-C above shall be reduced by 5 percent. Effective for dates of service on or after December 1, 2010,final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A.-C for the period, multiplied by 95 percent of the target rate per discharge or per diem limitation as specified per §967.A.-C for the period.

G. Effective for dates of service on or after August 1, 2010, the per diem rates as calculated per §967.A-C above shall be reduced by 4.6 percent. Effective for dates of service on or after December 1, 2010, final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A-C for the period, multiplied by 90.63 percent of the target rate per discharge or per diem limitation as specified per §967.A-C for the period.

H. Effective for dates of service on or after December 1, 2010, the per diem rates as calculated per §967.A.-C above shall be reduced by 2 percent. Final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A.-C for the period, multiplied by 88.82 percent of the target rate per discharge or per diem limitation as specified per §967.A.-C for the period.

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, Bureau of Health Services Financing, amended LR 36:2562 (November, 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#018

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Intermediate Care Facilities for Persons
with Developmental Disabilities
Reimbursement Rate Reduction
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of the allocation of additional funds by the legislature during the 2009 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities (ICFs/DD) to increase the per diem rates (*Louisiana Register*, Volume 36, Number 7).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/DD to reduce the per diem rates (*Louisiana Register*, Volume 36, Number 8). The department has now determined that it is necessary to amend the provisions of the August 1, 2010 Emergency Rule governing the reimbursement methodology for non-state ICFs/DD in order to exclude certain facilities from the rate reduction. This action is being taken to protect the health and welfare of Medicaid recipients and to insure continued provider participation in the Medicaid Program.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates 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) intermediate care facility services for persons with developmental disabilities under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective December 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the August 1, 2010 Emergency Rule governing the reimbursement methodology for intermediate care facilities for persons with developmental disabilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

**Subpart 3. Intermediate Care Facilities for Persons with
Developmental Disabilities**

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. - J. ...

K. Effective for dates of service on or after August 1, 2010, the per diem rates for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD) shall be reduced by 2 percent of the per diem rates on file as of July 31, 2010.

1. Effective for dates of service on or after December 20, 2010, non-state ICFs/DD which have downsized from over 100 beds to less than 35 beds prior to December 31, 2010 shall be excluded from the August 1, 2010 rate reduction.

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 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#128

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Laboratory and Radiology Services
Reimbursement Rate Reduction
(LAC 50:XIX.4329 and 4334-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIX.4329 and §§4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy

management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule also repealed the provisions governing the reimbursement for outpatient hospital laboratory services from this Chapter as these provisions have been amended and repromulgated in LAC 50:V.Chapter 57. The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XIX.4329 and §§4334-4337 as a result of the promulgation of the November 20, 2010 final Rule governing laboratory and radiology services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$855,906 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - H. ...

I. Effective for dates of service on or after August 1, 2010, the reimbursement rates for laboratory services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

J. Effective for dates of service on or after December 1, 2010, the reimbursement rates for laboratory services shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

§4334. Radiology Services

A. - G. ...

H. Effective for dates of service on or after August 1, 2010, the reimbursement rates for radiology services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

I. Effective for dates of service on or after December 1, 2010, the reimbursement rates for radiology services shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

§4335. Portable Radiology Services

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rates for portable radiology services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

G. Effective for dates of service on or after December 1, 2010, the reimbursement rates for portable radiology services shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

§4337. Radiation Therapy Centers

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

G. Effective for dates of service on or after December 1, 2010, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#017

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Emergency Ambulance Services
Reimbursement Rate Reduction
(LAC 50:XXVII.325 and 353)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11).

Due to a budgetary shortfall in state fiscal year 2011, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for emergency medical transportation services to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$313,329 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. - G. ...

H. Effective for dates of service on or after December 1, 2010, the reimbursement rates for emergency ambulance transportation services shall be reduced by 2 percent of the rate on file as of November 30, 2010.

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 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), amended LR 36:2564 (November 2010), LR 37:

Subchapter C. Aircraft Transportation

§353. Reimbursement

A. - E. ...

F. Effective for dates of service on or after December 1, 2010, the reimbursement rates for fixed winged and rotor winged emergency air ambulance services shall be reduced by 2 percent of the rate on file as of November 30, 2010.

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 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#022

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Ambulance Services
Reimbursement Rate Reduction
(LAC 50:XXVII.571)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.571 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy

management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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 amended the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11).

Due to a budgetary shortfall in state fiscal year 2011, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$118,644 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency ambulance services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part. XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter D. Reimbursement

§571. Non-Emergency Ambulance Transportation

A. - D. ...

E. Effective for dates of service on or after December 1, 2010, the ground mileage and ancillary services reimbursement rates for non-emergency ambulance transportation services shall be reduced by 2 percent of the rate in effect on November 30, 2010.

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 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
Reimbursement Rate Reduction
(LAC 50:XXVII.573)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.573 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health of Health Services Financing amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XXVII.573 as a result of the promulgation of the November 20, 2010 final Rule governing non-emergency medical transportation services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for non-emergency medical transportation services to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medical Transportation Program by approximately \$87,235 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program
Chapter 5. Non-Emergency Medical Transportation
Subchapter D. Reimbursement
§573. Non-Emergency, Non-Ambulance
Transportation

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for non-emergency, non-ambulance medical transportation services shall be reduced by 4.5 percent of the rates in effect on July 31, 2010.

1. Friends and family providers are excluded from the rate reduction.

E. Effective for dates of service on or after December 1, 2010, the reimbursement rates for non-emergency, non-ambulance medical transportation services shall be reduced by 2 percent of the rates in effect on November 30, 2010.

1. Friends and family providers are excluded from the rate reduction.

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 34:879 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#013

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Mental Health Rehabilitation Program
Reimbursement Rate Reduction
(LAC 50:XV.901)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.901 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy

management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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 amended the provisions governing the reimbursement methodology for the Mental Health Rehabilitation (MHR) Program to reduce the reimbursement rates paid for mental health rehabilitation services (*Louisiana Register*, Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which terminated the coverage of Parent/Family Intervention (Intensive) (PFII) services in the MHR Program and amended the provisions governing medical necessity for MHR services in order to establish continued treatment criteria (*Louisiana Register*, Volume 36, Number 8). Recipients receiving PFII services shall be transitioned to comparable services available in the MHR Program. The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XV.901 as a result of the promulgation of the November 20, 2010 final Rule governing mental health rehabilitation services.

Due to a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for mental health rehabilitation services to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$783,294 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for mental health rehabilitation services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 1. Mental Health Rehabilitation
Chapter 9. Reimbursement
§901. Reimbursement Methodology

A. - F. ...

G. Effective for dates of service on or after August 1, 2010, Medicaid reimbursement shall be terminated for parent/family intervention (intensive) services.

H. Effective for dates of service on or after December 1, 2010, the reimbursement rates for Mental Health Rehabilitation services shall be reduced by 3.3 percent of the rates on file as of November 30, 2010.

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 31:1091 (May 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 36:1249 (June 2010), LR 36:2565 (November 2010), LR:37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#015

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Multi-Systemic Therapy Reimbursement Rate Reduction (LAC 50:XV.25701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.25701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing multi-systemic therapy (MST) to reduce the reimbursement rates and to establish prior authorization requirements (*Louisiana Register*; Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for MST services to reduce the reimbursement rates (*Louisiana Register*; Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XV.25701 as a result of the promulgation of the November 20, 2010 final Rule governing MST services (*Louisiana Register*; Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department has now determined that it is necessary to further reduce the reimbursement rates paid for MST services. This action is

being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$317,695 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for multi-systemic therapy services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 17. Multi-Systemic Therapy

Chapter 257. Reimbursement

§25701. Reimbursement Methodology

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for multi-systemic therapy services shall be reduced by 2.63 percent of the rates on file as of July 31, 2010.

E. Effective for dates of service on or after December 1, 2010, the reimbursement rates for multi-systemic therapy services shall be reduced by 3 percent of the rates on file as of November 30, 2010.

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, Bureau of Health Services financing, LR 35:247 (February 2009), amended LR 36:1250 (June 2010), LR 36:2565 (November 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#014

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Benefits Management Program Medication Administration Influenza Vaccinations (LAC 50:XXIX.123,991 and 993)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.123 and §991 and adopts §993 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., 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 amended the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of H1N1 vaccine by qualified Medicaid enrolled pharmacists (*Louisiana Register*, Volume 36, Number 8). The department now proposes to amend the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of the influenza vaccine for all Medicaid recipients, and to provide reimbursement for the cost of the influenza vaccine for Medicaid recipients 19 years of age and older. This action is being taken to promote the health and welfare of Medicaid recipients by facilitating access to the influenza vaccine. It is estimated that the implementation of this proposed Rule will decrease expenditures in the Medicaid Program by approximately \$274,610 for state fiscal year 2010-2011.

Effective January 1, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Pharmacy Benefits Management Program to allow reimbursement for the influenza vaccine and administration of the vaccine.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§123. Medication Administration

A. Influenza Vaccine Administration. The department shall provide coverage for administration of the influenza vaccine by a qualified pharmacist when:

1. the pharmacist has been credentialed by the Louisiana Board of Pharmacy to administer medications; and
2. the pharmacist is Medicaid enrolled.

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, Bureau of Health Services Financing, LR 36:1783 (August 2010), amended LR 37:

Chapter 9. Methods of Payment

Subchapter H. Vaccines

§991. Vaccine Administration Fees

A. ...

B. Effective for dates of service on or after January 1, 2011, the reimbursement for administration of the influenza vaccine for all recipients shall be reimbursed at \$15.22 for subcutaneous or intramuscular injection, \$10.90 for nasal/oral administration or billed charges, whichever is the lesser amount. This fee includes counseling, when performed.

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, Bureau of Health Services Financing, LR 36:1783 (August 2010), amended LR 37:

§993. Vaccine Reimbursement

A. Effective for dates of service on or after January 1, 2011, the influenza vaccine for recipients aged 19 and over shall be reimbursed at 90 percent of the 2009 Louisiana

Medicare Average Sales Price (ASP) allowable or billed charges, whichever is the lesser amount.

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, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is 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.

Bruce D. Greenstein
Secretary

1012#119

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services—Non-Rural,
Non-State Hospitals and Children's Specialty Hospitals
Reimbursement Rate Reduction
(LAC:V.5313, 5317, 5513, 5517,
5713, 5719, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5313, §5317, §5513, §5517, §5713, §5719, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 36, Number 9). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing outpatient hospital services to

reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting as a result of the promulgation of the September 20, 2010 final Rule governing outpatient hospital services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures for outpatient hospital services by approximately \$1,594,354 for state fiscal year 2010-2011.

Taking the proposed rate reductions into consideration, the department has carefully reviewed the proposed rates 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) outpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

F. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:

§5317. Children's Specialty Hospitals

A. - B.1. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

D. Effective for dates of service on or after December 1, 2010, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

1. Final reimbursement shall be 86.15 percent of allowable cost as calculated through the cost report settlement process.

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, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

F. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:

§5517. Children's Specialty Hospitals

A. - B. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

D. Effective for dates of service on or after December 1, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

F. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:

§5719. Children's Specialty Hospitals

A. - B. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

D. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 4.6 percent of the rates effective as of July 31, 2010. Final reimbursement shall be at 71.13 percent of allowable cost through the cost settlement process.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

F. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 2 percent of the rates effective as of November 30, 2010. Final reimbursement shall be at 69.71 percent of allowable cost through the cost settlement process.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010),

amended LR 36:1250 (June 2010), amended LR 36:2043 (September 2010), LR 37:

§6119. Children's Specialty Hospitals

A. - B.1. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 4.6 percent of the rates effective as of July 31, 2010.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

D. Effective for dates of service on or after December 1, 2010, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 2 percent of the rates effective as of November 30, 2010.

1. Final reimbursement shall be 86.15 percent of allowable cost as calculated through the cost report settlement process.

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, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#011

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Major Teaching Hospitals
(LAC 50:V.6533)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.6533 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., 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 adopted

provisions governing the reimbursement methodology for outpatient hospital services rendered by acute care hospitals (*Louisiana Register*, Volume 22, Number 1). The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to provide a supplemental Medicaid payment to non-rural, non-state acute care hospitals designated as major teaching hospitals to facilitate the development of public-private collaborations in order to preserve access to medically necessary services for Medicaid recipients (*Louisiana Register*, Volume 35, Number 10). The department amended the provisions of the October 1, 2009 Emergency Rule in order to revise which fiscal year's claims data the quarterly payments will be based on (*Louisiana Register*, Volume 36, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective January 17, 2011, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state hospitals designated as major teaching hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 65. Teaching Hospitals

Subchapter B. Reimbursement Methodology

§6533. Major Teaching Hospitals

A. Effective for dates of service on or after October 1, 2009, a quarterly supplemental payment shall be issued to qualifying non-rural, non-state acute care hospitals for outpatient services rendered during the quarter. These payments shall be used to facilitate the development of public-private collaborations to preserve access to medically necessary services for Medicaid recipients. Aggregate payments to qualifying hospitals shall not exceed the maximum allowable cap for the state fiscal year.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must:

- a. be designated as a major teaching hospital by the department in state fiscal year 2009;
- b. have provided at least 25,000 Medicaid acute care paid days for state fiscal year 2008 dates of service;
- c. have provided at least 4,000 Medicaid distinct part psychiatric unit paid days for state fiscal year 2008 dates of service; and
- d. provided at least 20,000 Medicaid outpatient paid visits for state fiscal year 2008 dates of service.

2. Payments shall be distributed quarterly based on Medicaid paid claims data from service dates in state fiscal year 2009.

3. Payments are applicable to Medicaid service dates provided during each quarter and shall be discontinued for the remainder of the state fiscal year in the event that the

maximum payment cap is reached or by June 30, 2011, whichever occurs first.

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, Bureau of Health Services Financing, LR 37:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is 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.

Bruce D. Greenstein
Secretary

1012#126

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Personal Care Services—Long-Term
Policy Clarifications and Service Limit Reduction
(LAC 50:XV.12901-12909 and 12911-12915)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12901-12909 and §§12911-12915 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., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Senate Resolution 180 and House Resolution 190 of the 2008 Regular Session of the Louisiana Legislature directed the department to develop and implement cost control mechanisms to provide the most cost-effective means of financing the Long-Term Personal Care Services (LT-PCS) Program. In compliance with these legislative directives, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the LT-PCS Program to: 1) implement uniform needs-based assessments for authorizing service units; 2) reduce the limit on LT-PCS service hours; 3) mandate that providers must show cause for refusing to serve clients; and 4) incorporate provisions governing an allocation of weekly service hours (*Louisiana Register*, Volume 35, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services to: 1) establish provisions that address requests for services; 2) revise the eligibility criteria for LT-PCS; 3) clarify the provisions governing restrictions for paid direct care staff and the place of service; and 4) reduce the maximum allowed service hours (*Louisiana Register*, Volume 36, Number 8). The department now proposes to amend the provisions of the September 5, 2010 Emergency Rule to clarify the provisions of the Rule. This action is being taken to ensure that these provisions are promulgated in a clear and concise manner.

Effective December 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions of the September 5, 2010 Emergency Rule governing long-term personal care services.

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 assist individuals with functional impairments with their daily living activities. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid and non-Medicaid services being provided to the recipient and will be considered in conjunction with those other services.

B. Each recipient requesting or receiving long-term personal care services (LT-PCS) shall undergo a functional eligibility screening utilizing an eligibility screening tool called the Level of Care Eligibility Tool (LOCET), or a subsequent eligibility tool designated by the Office of Aging and Adult Services (OAAS).

C. Each LT-PCS applicant/recipient shall be assessed using a uniform assessment tool called the Minimum Data Set-Home Care (MDS-HC) or a subsequent assessment tool designated by OAAS. The MDS-HC is designed to verify that an individual meets eligibility qualifications and to determine resource allocation while identifying his/her need for support in performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MDS-HC assessment generates a score which measures the recipient's degree of self-performance of late-loss activities of daily living during the period just before the assessment.

1. The late-loss ADLs are eating, toileting, transferring and bed mobility. An individual's assessment will generate a score which is representative of the individual's degree of self-performance on these four late-loss ADLs.

C.2. - C.7. Repealed.

D. Based on the applicant/recipient's uniform assessment score, he/she is assigned to a level of support category and is eligible for a set allocation of weekly service hours associated with that level.

1. If the applicant/recipient disagrees with his/her allocation of weekly service hours, the applicant/recipient or his/her responsible representative may request a fair hearing to appeal the decision.

2. The applicant/recipient may qualify for more hours if it can be demonstrated that:

a. one or more answers to the questions involving late-loss ADLs are incorrect as recorded on the assessment; or

b. he/she needs additional hours to avoid entering into a nursing facility.

E. Requests for personal care services shall be accepted from the following individuals:

1. a Medicaid recipient who wants to receive personal care services;

2. an individual who is legally responsible for a recipient who may be in need of personal care services; or

3. a responsible representative designated by the recipient to act on his/her behalf in requesting personal care services.

F. Each recipient who requests PCS has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the recipient to act on his/her behalf in the process of accessing and/or maintaining personal care services.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the recipient's business without his/her involvement.

b. The written designation is valid until revoked by the recipient. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist and represent the recipient in the assessment, care plan development and service delivery processes; and

b. to aid the recipient in obtaining all necessary documentation for these processes.

F.3. - F.4. Repealed.

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 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 37:

§12902. Participant Direction Option

A. The Office of Aging and Adult Services implements a pilot program, the Louisiana Personal Options Program (La POP), which will allow recipients who receive long term personal care services (LT-PCS) to have the option of utilizing an alternative method to receive and manage their services. Recipients may direct and manage their own services by electing to participate in La POP, rather than accessing their services through a traditional personal care agency.

1. La POP shall be implemented through a phase-in process in Department of Health and Hospitals administrative regions designated by OAAS.

A.2. - B.1. ...

2. With the assistance of a services consultant, participants develop a personal support plan based on their approved plan of care and choose the individuals they wish to hire to provide the services.

C. - E.1. ...

2. Change in Condition. The participant's ability to direct his/her own care diminishes to a point where he/she can no longer do so and there is no responsible representative available to direct the care.

3. Misuse of Monthly Allocation of Funds. The LA POP participant or his/her responsible representative uses the monthly budgeted funds to purchase items unrelated to personal care needs or otherwise misappropriate the funds.

4. Failure to Provide Required Documentation. The participant or his/her responsible representative fails to complete and submit employee time sheets in a timely and accurate manner, or provide required documentation of expenditures and related items as prescribed in the Louisiana Personal Options Program's Roles and Responsibility agreement.

5. ...

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 Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). 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 the recipient. ADLs include tasks such as:

A.1. - A.5. ...

6. ambulation;
7. toileting; and
8. bed mobility.

B. IADLs are those activities that are considered essential, but may not require performance on a daily basis. IADLs cannot be performed in the recipient's home when he/she is absent from the home. IADLs include tasks such as:

1. light housekeeping;
2. food preparation and storage;
3. shopping;
4. laundry;
5. assisting with scheduling medical appointments when necessary;
6. accompanying the recipient to medical appointments when necessary;
7. assisting the recipient to access transportation; and
8. reminding the recipient to take his/her medication as prescribed by the physician.

C. Emergency and nonemergency 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.

1. La POP participants may choose to use some of their monthly budget to purchase non-medical transportation.

a. If transportation is furnished, the participant must accept all liability for their employee transporting them. It is the responsibility of the participant to ensure that the employee has a current, valid driver's license and automobile liability insurance.

D. - F. ...

G. Personal care services may be provided by one worker for up to three long-term personal care service recipients who live together and who have a common direct service 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 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12905. Eligibility Criteria

A. ...

B. Recipients must meet the eligibility criteria established by OAAS or its designee. Personal care services are medically necessary if the recipient:

B.1. - D. ...

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 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12907. Recipient Rights and Responsibilities

A. - A.2. ...

3. training the individual personal care worker in the specific skills necessary to maintain the recipient's independent functioning while maintaining him/her in the home;

4. developing an emergency component in the plan of care that includes a list of personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled worker from providing services;

5. - 9. ...

B. Changing Providers. Recipients may request to change PCS agencies without cause once after each three month interval during the service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the plan of care. Good cause shall be determined by OAAS or its designee.

C. In addition to these rights, a La POP participant has certain responsibilities, including:

1. ...

2. notifying the services consultant at the earliest reasonable time of admission to a hospital, nursing facility, rehabilitation facility or any other institution;

2.a. - 8. ...

9. training the direct service worker in the specific skills necessary to maintain the participant's independent functioning to remain in the home;

10. - 13. ...

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 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12909. Standards for Participation

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

d. any federal or state laws, Rules, regulations, policies and procedures contained in the Medicaid provider manual for personal care services, or other document issued by the department. Failure to do may result in sanctions.

A.2. - B.12.c. ...

C. An LT-PCS provider shall not refuse to serve any individual who chooses his agency unless there is documentation to support an inability to meet the individual's needs, or all previous efforts to provide service and supports have failed and there is no option but to refuse services.

C.1. - D.2. ...

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 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 37:

§12911. Staffing Requirements

A. - B.3. ...

C. Restrictions

1. The following individuals are prohibited from being reimbursed for providing services to a recipient:

- a. the recipient's spouse;
- b. the recipient's curator;
- c. the recipient's tutor;
- d. the recipient's legal guardian;
- e. the recipient's designated responsible representative; or

f. the person to whom the recipient has given Representative and Mandate authority (also known as Power of Attorney).

2. The owner, operator or controller of the home or property in which the recipient resides may receive reimbursement if related to the recipient unless he/she is the recipient's spouse.

D. - E.1.b. ...

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 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12912. Training

A. - C.6. ...

D. New direct care staff must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training. This CPR and first aid certification must be maintained and kept current as long as the direct service worker is employed with the PCS agency.

E. - E.7. ...

8. maintenance of a clean environment; and

9. - G3.c. ...

4. New La POP direct service workers must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training. This CPR and first aid certification must be maintained and kept current throughout the worker's employment period as a La POP personal care service worker.

G.5. - H. ...

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 Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§12913. Service Delivery

A. Personal care services shall 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 pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient's home when the recipient is absent from the home.

A.1. - A.4. Repealed.

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state without written prior approval of OAAS or its designee, through the plan of care or otherwise.

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

C.1. - E. ...

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 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 37:

§12915. Service Limitations

A. Personal care services shall be limited to up to 32 hours per week. Authorization of service hours shall be

considered on a case-by-case basis as substantiated by the recipient's plan of care and supporting documentation.

B. There shall be no duplication of services.

1. Personal care services may not be provided while the recipient is admitted to or attending a program which provides in-home assistance with IADLs or ADLs or while the recipient is admitted to or attending a program or setting where such assistance is available to 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 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#129

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Personal Care Services—Long-Term Reimbursement Rate Reduction (LAC 50:XV.12917)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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. As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the reimbursement methodology for long-term personal care services to reduce the reimbursement rates (*Louisiana Register*; Volume 36, Number 6).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for long-term personal care services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8).

Due to a continuing budgetary shortfall, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for long-term personal care services to further reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$5,647,608 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the reimbursement methodology for long-term personal care services to reduce the reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long-Term Care

§12917. Reimbursement Methodology

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rate for long-term personal care services shall be reduced by 4.6 percent of the rate on file as of July 31, 2010.

G. Effective for dates of service on or after December 1, 2010, the reimbursement rate for long-term personal care services shall be reduced by 5.8 percent of the rate on file as of November 30, 2010.

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 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#016

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Program—Prescription Limit Reduction (LAC 50:XXIX.113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing prescription limits in the Pharmacy Benefits Management Program to reduce the number of prescriptions covered by the Medicaid Program within a calendar month for certain recipients (*Louisiana Register*, Volume 35, Number 9).

Due to a budgetary shortfall in state fiscal year 2011, the department has determined that it is necessary to amend the provisions governing the Pharmacy Benefits Management Program to further reduce the number of prescriptions covered by the Medicaid Program within a calendar month. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$1,736,000 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing prescription limits in the Pharmacy Benefits Management Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§113. Prescription Limit

A. Effective December 1, 2010, the Department of Health and Hospitals will pay for a maximum of four prescriptions per calendar month for Medicaid recipients.

B. The following federally mandated recipient groups are exempt from the four prescriptions per calendar month limitation:

1. persons under 21 years of age;
2. persons who are residents of long-term care institutions, such as nursing homes and ICF-DD facilities; and
3. pregnant women.

C. The four prescriptions per month limit can be exceeded when the prescriber determines an additional prescription is medically necessary and communicates the following information to the pharmacist in his own handwriting or by telephone or other telecommunications device:

1. “medically necessary override;” and
2. a valid ICD-9-CM, or its successor, diagnosis code that is directly related to each drug prescribed that is over the four prescription limit (no ICD-9-CM, or its successor, literal description is acceptable).

D. The prescriber should use the Clinical Drug Inquiry (CDI) internet web application developed by the fiscal intermediary in his/her clinical assessment of the patient's disease state or medical condition and the current drug regime before making a determination that more than four prescriptions per calendar month is required by the recipient.

E. ...

F. An acceptable statement and ICD-9-CM, or its successor, diagnosis code are required for each prescription in excess of four for that month.

G. ...

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 32:1055 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1901 (September 2009), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#008

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pregnant Women Extended Services Dental Services—Reimbursement Rate Reduction (LAC 50:XV.16107)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.16107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of 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.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 9).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XV.16107 as a result of the promulgation of the September 20, 2010 final Rule governing the Pregnant Women Extended Services Dental Program (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department has determined that it is necessary to further reduce the reimbursement rates for dental services rendered to Medicaid eligible pregnant women. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$41,896 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology

for dental services rendered to Medicaid eligible pregnant women.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16107. Reimbursement

A. - D.3.q. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement fees for dental services provided to Medicaid eligible pregnant women shall be reduced to the following percentages of the 2009 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 69 percent for the comprehensive periodontal evaluation exam;

2. 65 percent for the following diagnostic services:

- a. intraoral-periapical first film;
- b. intraoral-periapical, each additional film; and
- c. panoramic film and prophylaxis, adult; and

3. 58 percent for the remaining diagnostic services and all periodontic procedures, restorative and oral and maxillofacial surgery procedures which includes the following dental services:

- a. intraoral, occlusal film;
- b. bitewings, two films;
- c. amalgam (one, two or three surfaces) primary or permanent;
- d. amalgam (four or more surfaces);
- e. resin-based composite (one, two or three surfaces), anterior;
- f. resin-based composite (four or more surfaces) or involving incisal angle, anterior;
- g. resin-based composite crown, anterior;
- h. resin-based composite (one, two, three, four or more surfaces), posterior;
- i. prefabricated stainless steel crown, primary or permanent tooth;
- j. prefabricated resin crown;
- k. periodontal scaling and root planning (four or more teeth per quadrant);
- l. full mouth debridement to enable comprehensive evaluation and diagnosis;
- m. extraction, coronal remnants-deciduous tooth;
- n. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
- o. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
- p. removal of impacted tooth, soft tissue; and
- q. removal of impacted tooth, partially bony.

F. Effective for dates of service on or after December 1, 2010, the reimbursement fees for dental services provided to Medicaid eligible pregnant women shall be reduced to the following percentages of the 2009 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 67.5 percent for the comprehensive periodontal evaluation exam;

2. 63.5 percent for the following diagnostic services:
 - a. intraoral-periapical first film;
 - b. intraoral-periapical, each additional film; and
 - c. panoramic film and prophylaxis, adult; and
3. 57 percent for the remaining diagnostic services and all periodontic procedures, restorative and oral and maxillofacial surgery procedures which includes the following dental services:
 - a. intraoral, occlusal film;
 - b. bitewings, two films;
 - c. amalgam (one, two or three surfaces) primary or permanent;
 - d. amalgam (four or more surfaces);
 - e. resin-based composite (one, two or three surfaces), anterior;
 - f. resin-based composite (four or more surfaces) or involving incisal angle, anterior;
 - g. resin-based composite crown, anterior;
 - h. resin-based composite (one, two, three, four or more surfaces), posterior;
 - i. prefabricated stainless steel crown, primary or permanent tooth;
 - j. prefabricated resin crown;
 - k. periodontal scaling and root planning (four or more teeth per quadrant);
 - l. full mouth debridement to enable comprehensive evaluation and diagnosis;
 - m. extraction, coronal remnants-deciduous tooth;
 - n. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
 - o. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
 - p. removal of impacted tooth, soft tissue; and
 - q. removal of impacted tooth, partially bony.

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 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), amended LR 36:2044 (September 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#025

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Physician Services—Obstetrics Rate Increase
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 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., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Professional Services Program to further reduce the reimbursement rates paid for physician services and to clarify the provisions governing physician reimbursement for services rendered to recipients 16 years of age or older (*Louisiana Register*, Volume 36, Number 10). The department has now determined that it is necessary to amend the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services.

This action is being taken to promote the health and welfare of Medicaid recipients by maintaining access to obstetric delivery services and encouraging the continued participation of physicians in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Professional Services Program by approximately \$956,784 for state fiscal year 2010-2011.

Effective December 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement

A. - H. ...

I. Effective for dates of service on or after December 1, 2010, reimbursement shall be 90 percent of the 2009 Louisiana Medicare Region 99 allowable for the following obstetric services when rendered to recipients 16 years of age and older:

1. vaginal-only delivery (with or without postpartum care);
2. vaginal delivery after previous cesarean (VBAC) delivery; and

3. cesarean delivery following attempted vaginal delivery after previous cesarean delivery. The reimbursement for a cesarean delivery remains at 80 percent of the 2009 Louisiana Medicare Region 99 allowable when the service is rendered to recipients 16 years of age and older.

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, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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.

Bruce D. Greenstein
Secretary

1012#009

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Statewide Orders No. 29-B and 29-B-a
(LAC 43:XIX.Chapters 2 and 11)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by amending and expanding the drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations. The Emergency Rule signed by the commissioner on July 8, 2010 and effective July 15, 2010 is hereby rescinded and replaced by the following Emergency Rule.

The Emergency Rule is intended to provide greater protection to the public health, safety and welfare of the people of the state, as well as the environment generally by adopting new operational and safety requirements for the drilling and completion of oil and gas wells at water locations. Specifically, the Emergency Rule creates a new Chapter within Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) to provide additional rules concerning the drilling and completion of oil and gas wells at water locations, specifically providing for the following: rig movement and reporting requirements, additional

requirements for applications to drill, casing program requirements, mandatory diverter systems and blowout preventer requirements, oil and gas well-workover operations, diesel engine safety requirements, and drilling fluid regulations. Further, the Emergency Rule amends Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) to provide for and expand upon rules concerning the use of storm chokes in oil and gas wells at water locations.

Recognizing the potential advantages of expanding the operational and safety requirements for the drilling and completion of oil and gas wells at water locations within the state, it has been determined that failure to establish such requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that drilling and completion of oil and gas wells at water locations within the State are undertaken in accordance with all reasonable care and protection to the health, safety of the public, oil and gas personnel, and the environment generally.

The effective date of the Emergency Rule, Amendment to Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) and Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) (Emergency Rule) set forth hereinafter is December 9, 2010. The Emergency Rule shall remain in effect for 120 days after its effective date.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 2. Additional Requirements for Water Locations

§201. Applicability

A. In addition to the requirements set forth in Chapter 1 of this Subpart, all oil and gas wells being drilled or completed at a water location within the state and which are spud or on which workover operations commence on or after July 15, 2010 shall comply with this Chapter.

B. Unless otherwise stated herein, nothing within this Chapter shall alter the obligation of oil and gas operators to meet the requirements of Chapter 1 of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§203. Application to Drill

A. In addition to the requirements set forth in Section 103 of this Subpart, at the time of submittal of an application for permit to drill, the applicant will provide an electronic copy on a disk of the associated drilling rig's Spill Prevention Control (SPC) plan that is required by DEQ pursuant to the provisions of Part IX of Title 33 of the Louisiana Administrative Code or any successor rule. Such plan shall become a part of the official well file. If the drilling rig to be used in drilling a permitted well changes between the date of the application and the date of drilling, the applicant shall provide an electronic copy on a disk of the SPC plan for the correct drilling rig within two business days of becoming aware of the change; but in no case shall

the updated SPC plan be submitted after spudding of the well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§204. Rig Movement and Reporting

A. The operator must report the movement of all drilling and workover rig units on and off locations to the appropriate district manager with the rig name, well serial number and expected time of arrival and departure.

B. Drilling operations on a platform with producing wells or other hydrocarbon flow must comply with the following.

1. An emergency shutdown station must be installed near the driller's console.
2. All producible wells located in the affected wellbay must be shut in below the surface and at the wellhead when:
 - a. a rig or related equipment is moved on and off a platform. This includes rigging up and rigging down activities within 500 feet of the affected platform;
 - b. a drilling unit is moved or skid between wells on a platform;
 - c. a mobile offshore drilling unit (MODU) moves within 500 feet of a platform.
3. Production may be resumed once the MODU is in place, secured, and ready to begin drilling operations.

C. The movement of rigs and related equipment on and off a platform or from well to well on the same platform, including rigging up and rigging down, shall be conducted in a safe manner. All wells in the same well-bay which are capable of producing hydrocarbons shall be shut in below the surface with a pump-through-type tubing plug and at the surface with a closed master valve prior to moving well-completion rigs and related equipment, unless otherwise approved by the district manager. A closed surface-controlled subsurface safety valve of the pump-through type may be used in lieu of the pump-through-type tubing plug, provided that the surface control has been locked out of operation. The well from which the rig or related equipment is to be moved shall also be equipped with a back-pressure valve prior to removing the blowout preventer (BOP) system and installing the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§205. Casing Program

A. General Requirements

1. The operator shall case and cement all wells with a sufficient number of strings of casing and quantity and quality of cement in a manner necessary to prevent fluid migration in the wellbore, protect the underground source of drinking water (USDW) from contamination, support unconsolidated sediments, and otherwise provide a means of control of the formation pressures and fluids.
2. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses that may be encountered and the well shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well.

3. All tubulars and cement shall meet or exceed API standards. Cementing jobs shall be designed so that cement composition, placement techniques, and waiting times ensure that the cement placed behind the bottom 500 feet of casing attains a minimum compressive strength of 500 psi before drilling out of the casing or before commencing completion operations.

4. Centralizers

a. Surface casing shall be centralized by means of placing centralizers in the following manner.

i. A centralizer shall be placed on every third joint from the shoe to surface, with two centralizers being placed on each of the lowermost three joints of casing.

ii. If conductor pipe is set, three centralizers shall be equally spaced on surface casing to fall within the conductor pipe.

b. Intermediate and production casing, and drilling and production liners shall be centralized by means of a centralizer placed every third joint from the shoe to top of cement. Additionally, two centralizers shall be placed on each of the lowermost three joints of casing.

c. All centralizers shall meet API standards.

5. A copy of the documentation furnished by the manufacturer, if new, or supplier, if reconditioned, which certifies tubular condition, shall be provided with the Well History and Work Resume Report (Form WH-1).

B. Conductor Pipe. A conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. A conductor pipe shall be used during the drilling of any oil and gas well and shall be set at depth that allows use of a diverter system.

C. Surface Casing

1. Where no danger of pollution of the USDW exists, the minimum amount of surface or first-intermediate casing to be set shall be determined from Table 1 hereof, except that in no case shall less surface casing be set than an amount needed to protect the USDW unless an alternative method of USDW protection is approved by the district manager.

| Total Depth of Contact | Casing Required | Surface Casing Test Pressure (lbs. per sq. in.) |
|------------------------|-----------------|---|
| 0-2500 | 100 | 300 |
| 2500-3000 | 150 | 600 |
| 3000-4000 | 300 | 600 |
| 4000-5000 | 400 | 600 |
| 5000-6000 | 500 | 750 |
| 6000-7000 | 800 | 1000 |
| 7000-8000 | 1000 | 1000 |
| 8000-9000 | 1400 | 1000 |
| 9000-Deeper | 1800 | 1000 |

a. In known low-pressure areas, exceptions to the above may be granted by the commissioner or his agent. If, however, in the opinion of the commissioner, or his agent, the above regulations shall be found inadequate, and additional or lesser amount of surface casing and/or test pressure shall be required for the purpose of safety and the protection of the USDW.

2. Surface casing shall be cemented with a sufficient volume of cement to insure cement returns to the surface.

3. Surface casing shall be tested before drilling the plug by applying a minimum pump pressure as set forth in

Table 1 after at least 200 feet of the mud-laden fluid has been displaced with water at the top of the column. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of test pressure as outlined in Table 1, the operator shall be required to take such corrective measures as will insure that such surface casing will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure. The provisions of Paragraph E.7, below, for the producing casing, shall also apply to the surface casing.

4. Cement shall be allowed to stand a minimum of 12 hours under pressure before initiating test or drilling plug. Under pressure is complied with if one float valve is used or if pressure is held otherwise.

D. Intermediate Casing/Drilling Liner

1. Intermediate casing is that casing used as protection against caving of heaving formations or when other means are not adequate for the purpose of segregating upper oil, gas or water-bearing strata. Intermediate casing/drilling liner shall be set when required by abnormal pressure or other well conditions.

2. If an intermediate casing string is deemed necessary by the district manager for the prevention of underground waste, such regulations pertaining to a minimum setting depth, quality of casing, and cementing and testing of sand, shall be determined by the Office of Conservation after due hearing. The provisions of Paragraph E.7 below, for the producing casing, shall also apply to the intermediate casing.

3. Intermediate casing/drilling liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as an intermediate string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The drilling liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. Before drilling the plug in the intermediate string of casing, the casing shall be tested by pump pressure, as determined from Table 2 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

| Depth Set | Test Pressure (lbs. per sq. in.) |
|------------------|---|
| 2000-3000' | 800 |
| 3000-6000' | 1000 |
| 6000-9000' | 1200 |
| 9000-and deeper | 1500 |

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that casing is so set and cemented that it will

hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. If the test is unsatisfactory, the operator shall not proceed with the drilling of the well until a satisfactory test has been obtained.

E. Producing String

1. Producing string, production casing or production liner is that casing used for the purpose of segregating the horizon from which production is obtained and affording a means of communication between such horizons and the surface.

2. The producing string of casing shall consist of new or reconditioned casing, tested at mill test pressure or as otherwise designated by the Office of Conservation.

3. Cement shall be by the pump-and-plug method, or another method approved by the Office of Conservation. Production casing/production liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as a producing string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The production liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. The amount of cement to be left remaining in the casing, until the requirements of Paragraph 5 below have been met, shall be not less than 20 feet. This shall be accomplished through the use of a float-collar, or other approved or practicable means, unless a full-hole cementer, or its equivalent, is used.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test in the producing or oil string. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. Before drilling the plug in the producing string of casing, the casing shall be tested by pump pressure, as determined from Table 3 hereof, after 200 feet of mud-laden

fluid in the casing has been displaced by water at the top of the column.

| Depth Set | Test Pressure (lbs. per sq. in.) |
|------------------|---|
| 2000-3000' | 800 |
| 3000-6000' | 1000 |
| 6000-9000' | 1200 |
| 9000-and deeper | 1500 |

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that the producing string of casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

7. If the commissioner's agent is not present at the time designated by the operator for inspection of the casing tests of the producing string, the operator shall have such tests witnessed, preferably by an offset operator. An affidavit of test, on the form prescribed by the district office, signed by the operator and witness, shall be furnished to the district office showing that the test conformed satisfactorily to the above mentioned regulations before proceeding with the completion. If test is satisfactory, normal operations may be resumed immediately.

8. If the test is unsatisfactory, the operator shall not proceed with the completion of the well until a satisfactory test has been obtained.

F. Cement Evaluation

1. Cement evaluation tests (cement bond or temperature survey) shall be conducted for all casing and liners installed below surface casing to assure compliance with LAC 43:XIX.205.D.3 and E.3.

2. Remedial cementing operations that are required to achieve compliance with LAC 43:XIX.205.D.3 and E.3 shall be conducted following receipt of an approved work permit from the district manager for the proposed operations.

3. Cementing and wireline records demonstrating the presence of the required cement tops shall be retained by the operator for a period of two years.

G. Leak-off Tests

1. A pressure integrity test must be conducted below the surface casing or liner and all intermediate casings or liners. The district manager may require a pressure-integrity test at the conductor casing shoe if warranted by local geologic conditions or the planned casing setting depth. Each pressure integrity test must be conducted after drilling at least 10 feet but no more than 50 feet of new hole below the casing shoe and must be tested to either the formation leak-off pressure or to the anticipated equivalent drilling fluid weight at the setting depth of the next casing string.

a. The pressure integrity test and related hole-behavior observations, such as pore-pressure test results, gas-cut drilling fluid, and well kicks must be used to adjust the drilling fluid program and the setting depth of the next casing string. All test results must be recorded and hole-behavior observations made during the course of drilling related to formation integrity and pore pressure in the driller's report.

b. While drilling, a safe drilling margin must be maintained. When this safe margin cannot be maintained, drilling operations must be suspended until the situation is remedied.

H. Prolonged Drilling Operations

1. If wellbore operations continue for more than 30 days within a casing string run to the surface:

a. drilling operations must be stopped as soon as practicable, and the effects of the prolonged operations on continued drilling operations and the life of the well evaluated. At a minimum, the operator shall:

i. caliper or pressure test the casing; and
ii. report evaluation results to the district manager and obtain approval of those results before resuming operations;

b. if casing integrity as determined by the evaluation has deteriorated to a level below minimum safety factors, the casing must be repaired or another casing string run. Approval from the district manager shall be obtained prior to any casing repair activity.

I. Tubing and Completion

1. Well-completion operations means the work conducted to establish the production of a well after the production-casing string has been set, cemented, and pressure-tested.

2. Prior to engaging in well-completion operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review by the Office of Conservation.

3. When well-completion operations are conducted on a platform where there are other hydrocarbon-producing wells or other hydrocarbon flow, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station.

4. No tubing string shall be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

5. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

6. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure off of the casing.

7. Wellhead Connections. Wellhead connections shall be tested prior to installation at a pressure indicated by the district manager in conformance with conditions existing in areas in which they are used. Whenever such tests are made in the field, they shall be witnessed by an agent of the Office of Conservation. Tubing and tubingheads shall be free from obstructions in wells used for bottomhole pressure test purposes.

8. When the tree is installed, the wellhead shall be equipped so that all annuli can be monitored for sustained pressure. If sustained casing pressure is observed on a well, the operator shall immediately notify the district manager.

9. Wellhead, tree, and related equipment shall have a pressure rating greater than the shut-in tubing pressure and shall be designed, installed, used, maintained, and tested so as to achieve and maintain pressure control. New wells completed as flowing or gas-lift wells shall be equipped with a minimum of one master valve and one surface safety valve, installed above the master valve, in the vertical run of the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§207. Diverter Systems and Blowout Preventers

A. Diverter System. A diverter system shall be required when drilling surface hole in areas where drilling hazards are known or anticipated to exist. The district manager may, at his discretion, require the use of a diverter system on any well. In cases where it is required, a diverter system consisting of a diverter sealing element, diverter lines, and control systems must be designed, installed, used, maintained, and tested to ensure proper diversion of gases, water, drilling fluids, and other materials away from facilities and personnel. The diverter system shall be designed to incorporate the following elements and characteristics:

1. dual diverter lines arranged to provide for maximum diversion capability;
2. at least two diverter control stations. One station shall be on the drilling floor. The other station shall be in a readily accessible location away from the drilling floor;
3. remote-controlled valves in the diverter lines. All valves in the diverter system shall be full-opening. Installation of manual or butterfly valves in any part of the diverter system is prohibited;
4. minimize the number of turns in the diverter lines, maximize the radius of curvature of turns, and minimize or eliminate all right angles and sharp turns;
5. anchor and support systems to prevent whipping and vibration;
6. rigid piping for diverter lines. The use of flexible hoses with integral end couplings in lieu of rigid piping for diverter lines shall be approved by the district manager.

B. Diverter Testing Requirements

1. When the diverter system is installed, the diverter components including the sealing element, diverter valves, control systems, stations and vent lines shall be function and pressure tested.
2. For drilling operations with a surface wellhead configuration, the system shall be function tested at least once every 24-hour period after the initial test.
3. After nipping-up on conductor casing, the diverter sealing element and diverter valves are to be pressure tested to a minimum of 200 psig. Subsequent pressure tests are to be conducted within seven days after the previous test.
4. Function tests and pressure tests shall be alternated between control stations.
5. Recordkeeping Requirements

a. Pressure and function tests are to be recorded in the driller's report and certified (signed and dated) by the operator's representative.

b. The control station used during a function or pressure test is to be recorded in the driller's report.

c. Problems or irregularities during the tests are to be recorded along with actions taken to remedy same in the driller's report.

d. All reports pertaining to diverter function and/or pressure tests are to be retained for inspection at the wellsite for the duration of drilling operations.

C. BOP Systems. The operator shall specify and insure that contractors design, install, use, maintain and test the BOP system to ensure well control during drilling, workover and all other appropriate operations. The surface BOP stack shall be installed before drilling below surface casing.

1. BOP system components for drilling activity located over a body of water shall be designed and utilized, as necessary, to control the well under all potential conditions that might occur during the operations being conducted and at minimum, shall include the following components:

- a. annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. two sets of hydraulically-operated pipe rams.

2. Drilling activity with a tapered drill string shall require the installation of two or more sets of conventional or variable-bore pipe rams in the BOP stack to provide, at minimum, two sets of rams capable of sealing around the larger-size drill string and one set of pipe rams capable of sealing around the smaller-size drill string.

3. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

4. All connections used in the surface BOP system must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

5. The Commissioner of Conservation, following a public hearing, may grant exceptions to the requirements of LAC 43:XIX.207.C-J.

D. BOP Working Pressure. The working pressure rating of any BOP component, excluding annular-type preventers, shall exceed the maximum anticipated surface pressure (MASP) to which it may be subjected.

E. BOP Auxiliary Equipment. All BOP systems shall be equipped and provided with the following:

1. a hydraulically actuated accumulator system which shall provide 1.5 times volume of fluid capacity to close and hold closed all BOP components, with a minimum pressure of 200 psig above the pre-charge pressure without assistance from a charging system;
2. a backup to the primary accumulator-charging system, supplied by a power source independent from the power source to the primary, which shall be sufficient to close all BOP components and hold them closed;
3. accumulator regulators supplied by rig air without a secondary source of pneumatic supply shall be equipped with manual overrides or other devices to ensure capability of hydraulic operation if the rig air is lost;

4. at least one operable remote BOP control station in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor. If a BOP control station does not perform properly, operations shall be suspended until that station is operable;

5. a drilling spool with side outlets, if side outlets are not provided in the body of the BOP stack, to provide for separate kill and choke lines;

6. a kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. The choke line shall be installed above the bottom ram. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore;

7. a valve installed below the swivel (upper Kelly cock), essentially full-opening, and a similar valve installed at the bottom of the Kelly (lower Kelly cock). An operator must be able to strip the lower Kelly cock through the BOP stack. A wrench to fit each valve shall be stored in a location readily accessible to the drilling crew. If drilling with a mud motor and utilizing drill pipe in lieu of a Kelly, you must install one Kelly valve above, and one strippable Kelly valve below the joint of pipe used in place of a Kelly. On a top-drive system equipped with a remote-controlled valve, you must install a strippable Kelly-type valve below the remote-controlled valve;

8. an essentially full-opening drill-string safety valve in the open position on the rig floor shall be available at all times while drilling operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the drill string. A wrench to fit the drill-string safety valve shall be stored in a location readily accessible to the drilling crew;

9. a safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string being run in the hole;

10. locking devices installed on the ram-type preventers.

F. BOP Maintenance and Testing Requirements

1. The BOP system shall be visually inspected on a daily basis.

2. Pressure tests (low and high pressure) of the BOP system are to be conducted at the following times and intervals:

a. during a shop test prior to transport of the BOPs to the drilling location. Shop tests are not required for equipment that is transported directly from one well location to another;

b. immediately following installation of the BOPs;

c. within 14 days of the previous BOP pressure test, alternating between control stations and at a staggered interval to allow each crew to operate the equipment. If

either control system is not functional, further operations shall be suspended until the nonfunctional, system is operable. Exceptions may be granted by the district manager in cases where a trip is scheduled to occur within 2 days after the 14-day testing deadline;

d. before drilling out each string of casing or liner (The district manager may require that a conservation enforcement specialist witness the test prior to drilling out each casing string or liner.);

e. not more than 48 hours before a well is drilled to a depth that is within 1000 feet of a hydrogen sulfide zone (The district manager may require that a conservation enforcement specialist witness the test prior to drilling to a depth that is within 1000 feet of a hydrogen sulfide zone.);

f. when the BOP tests are postponed due to well control problem(s), the BOP test is to be performed on the first trip out of the hole, and reasons for postponing the testing are to be recorded in the driller's report.

3. Low pressure tests (200-300 psig) of the BOP system (choke manifold, Kelly valves, drill-string safety valves, etc.) are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2. in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Variable bore pipe rams are to be tested against the largest and smallest sizes of pipe in use, excluding drill collars and bottom hole assembly.

c. Bonnet seals are to be tested before running the casing when casing rams are installed in the BOP stack.

4. High pressure tests of the BOP system are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2 in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Ram-type BOP's, choke manifolds, and associated equipment are to be tested to the rated working pressure of the equipment or 500 psi greater than the calculated MASP for the applicable section of the hole.

c. Annular-type BOPs are to be tested to 70 percent of the rated working pressure of the equipment.

5. The annular and ram-type BOPs with the exception of the blind-shear rams are to be function tested every seven days between pressure tests. All BOP test records should be certified (signed and dated) by the operator's representative.

a. Blind-shear rams are to be tested at all casing points and at an interval not to exceed 30 days.

6. If the BOP equipment does not hold the required pressure during a test, the problem must be remedied and a retest of the affected component(s) performed. Additional BOP testing requirements:

a. use water to test the surface BOP system;

b. if a control station is not functional operations shall be suspended until that station is operable;

c. test affected BOP components following the disconnection or repair of any well-pressure containment seal in the wellhead or BOP stack assembly.

G. BOP Record Keeping. The time, date and results of pressure tests, function tests, and inspections of the BOP system are to be recorded in the driller's report. All pressure tests shall be recorded on an analog chart or digital recorder. All documents are to be retained for inspection at the

wellsite for the duration of drilling operations and are to be retained in the operator's files for a period of two years.

H. BOP Well Control Drills. Weekly well control drills with each drilling crew are to be conducted during a period of activity that minimizes the risk to drilling operations. The drills must cover a range of drilling operations, including drilling with a diverter (if applicable), on-bottom drilling, and tripping. Each drill must be recorded in the driller's report and is to include the time required to close the BOP system, as well as, the total time to complete the entire drill.

I. Well Control Safety Training. In order to ensure that all drilling personnel understand and can properly perform their duties prior to drilling wells which are subject to the jurisdiction of the Office of Conservation, the operator shall require that contract drilling companies provide and/or implement the following:

1. periodic training for drilling contractor employees which ensures that employees maintain an understanding of, and competency in, well control practices;

2. procedures to verify adequate retention of the knowledge and skills that the contract drilling employees need to perform their assigned well control duties.

J. Well Control Operations

1. The operator must take necessary precautions to keep wells under control at all times and must:

a. use the best available and safest drilling technology to monitor and evaluate well conditions and to minimize the potential for the well to flow or kick;

b. have a person onsite during drilling operations who represents the operators interests and can fulfill the operators responsibilities;

c. ensure that the tool pusher, operator's representative, or a member of the drilling crew maintains continuous surveillance on the rig floor from the beginning of drilling operations until the well is completed or abandoned, unless you have secured the well with blowout preventers (BOPs), bridge plugs, cement plugs, or packers;

d. use and maintain equipment and materials necessary to ensure the safety and protection of personnel, equipment, natural resources, and the environment.

2. Whenever drilling operations are interrupted, a downhole safety device must be installed, such as a cement plug, bridge plug, or packer. The device must be installed at an appropriate depth within a properly cemented casing string or liner.

a. Among the events that may cause interruption to drilling operations are:

i. evacuation of the drilling crew;

ii. inability to keep the drilling rig on location; or

iii. repair to major drilling or well-control equipment.

3. If the diverter or BOP stack is nipped down while waiting on cement, it must be determined, before nipping down, when it will be safe to do so based on knowledge of formation conditions, cement composition, effects of nipping down, presence of potential drilling hazards, well conditions during drilling, cementing, and post cementing, as well as past experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§209. Casing-Heads

A. All wells shall be equipped with casing-heads with a test pressure in conformance with conditions existing in areas in which they are used. Casing-head body, as soon as installed shall be equipped with proper connections and valves accessible to the surface. Reconditioning shall be required on any well showing pressure on the casing-head, or leaking gas or oil between the oil string and next larger size casing string, when, in the opinion of the district managers, such pressure or leakage assume hazardous proportions or indicate the existence of underground waste. Mud-laden fluid may be pumped between any two strings of casing at the top of the hole, but no cement shall be used except by special permission of the commissioner or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§211. Oil and Gas Well-Workover Operations

A. Definitions. When used in this Section, the following terms shall have the meanings given below.

Expected Surface Pressure—the highest pressure predicted to be exerted upon the surface of a well. In calculating expected surface pressure, reservoir pressure as well as applied surface pressure must be considered.

Routine Operations—any of the following operations conducted on a well with the tree installed including cutting paraffin, removing and setting pump-through-type tubing plugs, gas-lift valves, and subsurface safety valves which can be removed by wireline operations, bailing sand, pressure surveys, swabbing, scale or corrosion treatment, caliper and gauge surveys, corrosion inhibitor treatment, removing or replacing subsurface pumps, through-tubing logging, wireline fishing, and setting and retrieving other subsurface flow-control devices.

Workover Operations—the work conducted on wells after the initial completion for the purpose of maintaining or restoring the productivity of a well.

B. When well-workover operations are conducted on a well with the tree removed, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station, except when there is no other hydrocarbon-producing well or other hydrocarbon flow on the platform.

C. Prior to engaging in well-workover operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review.

D. Well-Control Fluids, Equipment, and Operations. The following requirements apply during all well-workover operations with the tree removed.

1. The minimum BOP-system components when the expected surface pressure is less than or equal to 5,000 psi shall include one annular-type well control component, one set of pipe rams, and one set of blind-shear rams. The shear ram component of this requirement shall be effective for any workover operations initiated on or after January 1, 2011 and not before.

2. The minimum BOP-system components when the expected surface pressure is greater than 5,000 psi shall include one annular-type well control component, two sets of pipe rams, and one set of blind-shear rams. The shear ram component of this requirement shall be effective for any workover operations initiated on or after January 1, 2011 and not before.

3. BOP auxiliary equipment in accordance with the requirements of LAC 43:XIX.207.E.

4. When coming out of the hole with drill pipe or a workover string, the annulus shall be filled with well-control fluid before the change in such fluid level decreases the hydrostatic pressure 75 pounds per square inch (psi) or every five stands of drill pipe or workover string, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe or workover string and drill collars that may be pulled prior to filling the hole and the equivalent well-control fluid volume shall be calculated and posted near the operator's station. A mechanical, volumetric, or electronic device for measuring the amount of well-control fluid required to fill the hold shall be utilized.

5. The following well-control-fluid equipment shall be installed, maintained, and utilized:

- a. a fill-up line above the uppermost BOP;
- b. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and

- c. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. The minimum BOP-system components for well-workover operations with the tree in place and performed through the wellhead inside of conventional tubing using small-diameter jointed pipe (usually 3/4 inch to 1 1/4 inch) as a work string, i.e., small-tubing operations, shall include two sets of pipe rams, and one set of blind rams.

1. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

F. For coiled tubing operations with the production tree in place, you must meet the following minimum requirements for the BOP system.

1. BOP system components must be in the following order from the top down when expected surface pressures are less than or equal to 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically operated two-way slip rams;
- f. hydraulically operated pipe rams.

2. BOP system components must be in the following order from the top down when expected surface pressures are greater than 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;

- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. hydraulically-operated blind-shear rams. These rams should be located as close to the tree as practical.

3. BOP system components must be in the following order from the top down for wells with returns taken through an outlet on the BOP stack:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. a flow tee or cross;
- h. hydraulically-operated pipe rams;
- i. hydraulically-operated blind-shear rams on wells

with surface pressures less than or equal to 3,500 psi. As an option, the pipe rams can be placed below the blind-shear rams. The blind-shear rams should be placed as close to the tree as practical.

4. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

5. A set of hydraulically-operated combination rams may be used for the hydraulic two-way slip rams and the hydraulically-operated pipe rams.

6. A dual check valve assembly must be attached to the coiled tubing connector at the downhole end of the coiled tubing string for all coiled tubing well-workover operations. To conduct operations without a downhole check valve, it must be approved by the district manager.

7. A kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore.

8. The hydraulic-actuating system must provide sufficient accumulator capacity to close-open-close each component in the BOP stack. This cycle must be completed with at least 200 psi above the pre-charge pressure without assistance from a charging system.

9. All connections used in the surface BOP system from the tree to the uppermost required ram must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

10. The coiled tubing connector must be tested to a low pressure of 200 to 300 psi, followed by a high pressure test to the rated working pressure of the connector or the expected surface pressure, whichever is less. The dual check valves must be successfully pressure tested to the rated working pressure of the connector, the rated working pressure of the dual check valve, expected surface pressure,

or the collapse pressure of the coiled tubing, whichever is less.

G. The minimum BOP-system components for well-workover operations with the tree in place and performed by moving tubing or drill pipe in or out of a well under pressure utilizing equipment specifically designed for that purpose, i.e., snubbing operations, shall include the following:

1. one set of pipe rams hydraulically operated; and
2. two sets of stripper-type pipe rams hydraulically operated with spacer spool.

H. Test pressures must be recorded during BOP and coiled tubing tests on a pressure chart, or with a digital recorder, unless otherwise approved by the district manager. The test interval for each BOP system component must be 5 minutes, except for coiled tubing operations, which must include a 10 minute high-pressure test for the coiled tubing string.

I. Wireline Operations. The operator shall comply with the following requirements during routine, as defined in Subsection A of this Section, and nonroutine wireline workover operations.

1. Wireline operations shall be conducted so as to minimize leakage of well fluids. Any leakage that does occur shall be contained to prevent pollution.

2. All wireline perforating operations and all other wireline operations where communication exists between the completed hydrocarbon-bearing zone(s) and the wellbore shall use a lubricator assembly containing at least one wireline valve.

3. When the lubricator is initially installed on the well, it shall be successfully pressure tested to the expected shut-in surface pressure.

J. Following completion of the well-workover activity, all such records shall be retained by the operator for a period of two years.

K. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§213. Diesel Engine Safety Requirements

A. On or after January 1, 2011, each diesel engine with an air take device must be equipped to shut down the diesel engine in the event of a runaway.

1. A diesel engine that is not continuously manned, must be equipped with an automatic shutdown device.

2. A diesel engine that is continuously manned, may be equipped with either an automatic or remote manual air intake shutdown device.

3. A diesel engine does not have to be equipped with an air intake device if it meets one of the following criteria:

- a. starts a larger engine;
- b. powers a firewater pump;
- c. powers an emergency generator;
- d. powers a BOP accumulator system;
- e. provides air supply to divers or confined entry personnel;

f. powers temporary equipment on a nonproducing platform;

g. powers an escape capsule; or

h. powers a portable single-cylinder rig washer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§215. Drilling Fluids

A. The inspectors and engineers of the Office of Conservation shall have access to the mud records of any drilling well, except those records which pertain to special muds and special work with respect to patentable rights, and shall be allowed to conduct any essential test or tests on the mud used in the drilling of a well. When the conditions and tests indicate a need for a change in the mud or drilling fluid program in order to insure proper control of the well, the district manager shall require the operator or company to use due diligence in correcting any objectionable conditions.

B. Well-control fluids, equipment, and operations shall be designed, utilized, maintained, and/or tested as necessary to control the well in foreseeable conditions and circumstances.

C. The well shall be continuously monitored during all operations and shall not be left unattended at any time unless the well is shut in and secured.

D. The following well-control-fluid equipment shall be installed, maintained, and utilized:

1. a fill-up line above the uppermost BOP;
2. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
3. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. Safe Practices

1. Before starting out of the hole with drill pipe, the drilling fluid must be properly conditioned. A volume of drilling fluid equal to the annular volume must be circulated with the drill pipe just off-bottom. This practice may be omitted if documentation in the driller's report shows:

- a. no indication of formation fluid influx before starting to pull the drill pipe from the hole;
- b. the weight of returning drilling fluid is within 0.2 pounds per gallon of the drilling fluid entering the hole.

2. Record each time drilling fluid is circulated in the hole in the driller's report.

3. When coming out of the hole with drill pipe, the annulus must be filled with drilling fluid before the hydrostatic pressure decreases by 75 psi, or every five stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that may be pulled must be calculated before the hole is filled. Both sets of numbers must be posted near the driller's station. A mechanical, volumetric, or electronic device must be used to measure the drilling fluid required to fill the hole.

4. Controlled rates must be used to run and pull drill pipe and downhole tools so as not to swab or surge the well.

5. When there is an indication of swabbing or influx of formation fluids, appropriate measures must be taken to control the well. Circulate and condition the well, on or near-bottom, unless well or drilling-fluid conditions prevent running the drill pipe back to the bottom.

6. The maximum pressures must be calculated and posted near the driller's console that you may safely contain under a shut-in BOP for each casing string. The pressures posted must consider the surface pressure at which the formation at the shoe would break down, the rated working pressure of the BOP stack, and 70 percent of casing burst (or casing test as approved by the district manager). As a minimum, you must post the following two pressures:

a. the surface pressure at which the shoe would break down. This calculation must consider the current drilling fluid weight in the hole; and

b. the lesser of the BOP's rated working pressure or 70 percent of casing-burst pressure (or casing test otherwise approved by the district manager).

7. An operable drilling fluid-gas separator and degasser must be installed before you begin drilling operations. This equipment must be maintained throughout the drilling of the well.

8. The test fluids in the hole must be circulated or reverse circulated before pulling drill-stem test tools from the hole. If circulating out test fluids is not feasible, with an appropriate kill weight fluid test fluids may be bullhead out of the drill-stem test string and tools.

9. When circulating, the drilling fluid must be tested at least once each work shift or more frequently if conditions warrant. The tests must conform to industry-accepted practices and include density, viscosity, and gel strength; hydrogen ion concentration; filtration; and any other tests the district manager requires for monitoring and maintaining drilling fluid quality, prevention of downhole equipment problems and for kick detection. The test results must be recorded in the drilling fluid report.

F. Monitoring Drilling Fluids

1. Once drilling fluid returns are established, the following drilling fluid-system monitoring equipment must be installed throughout subsequent drilling operations. This equipment must have the following indicators on the rig floor:

a. pit level indicator to determine drilling fluid-pit volume gains and losses. This indicator must include both a visual and an audible warning device;

b. volume measuring device to accurately determine drilling fluid volumes required to fill the hole on trips;

c. return indicator devices that indicate the relationship between drilling fluid-return flow rate and pump discharge rate. This indicator must include both a visual and an audible warning device; and

d. gas-detecting equipment to monitor the drilling fluid returns. The indicator may be located in the drilling fluid-logging compartment or on the rig floor. If the indicators are only in the logging compartment, you must continually man the equipment and have a means of immediate communication with the rig floor. If the indicators are on the rig floor only, an audible alarm must be installed.

G. Drilling Fluid Quantities

1. Quantities of drilling fluid and drilling fluid materials must be maintained and replenished at the drill site as necessary to ensure well control. These quantities must be determined based on known or anticipated drilling conditions, rig storage capacity, weather conditions, and estimated time for delivery.

2. The daily inventories of drilling fluid and drilling fluid materials must be recorded, including weight materials and additives in the drilling fluid report.

3. If there are not sufficient quantities of drilling fluid and drilling fluid material to maintain well control, the drilling operations must be suspended.

H. Drilling fluid-handling areas

1. Drilling fluid-handling areas must be classified according to API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class I, Division 1 and Division 2 or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class 1, Zone 0, Zone 1, and Zone 2. In areas where dangerous concentrations of combustible gas may accumulate. A ventilation system and gas monitors must be installed and maintained. Drilling fluid-handling areas must have the following safety equipment:

a. a ventilation system capable of replacing the air once every 5 minutes or 1.0 cubic feet of air-volume flow per minute, per square foot of area, whichever is greater. In addition:

i. if natural means provide adequate ventilation, then a mechanical ventilation system is not necessary;

ii. if a mechanical system does not run continuously, then it must activate when gas detectors indicate the presence of 1 percent or more of combustible gas by volume; and

iii. if discharges from a mechanical ventilation system may be hazardous, the drilling fluid-handling area must be maintained at a negative pressure. The negative pressure area must be protected by using at least one of the following:

(a). a pressure-sensitive alarm;

(b). open-door alarms on each access to the area;

(c). automatic door-closing devices;

(d). air locks; or

(e). other devices approved by the district manager;

b. gas detectors and alarms except in open areas where adequate ventilation is provided by natural means. Gas detectors must be tested and recalibrated quarterly. No more than 90 days may elapse between tests;

c. explosion-proof or pressurized electrical equipment to prevent the ignition of explosive gases. Where air is used for pressuring equipment, the air intake must be located outside of and as far as practicable from hazardous areas; and

d. alarms that activate when the mechanical ventilation system fails.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

Subpart 4. Statewide Order No. 29-B-a

Chapter 11. Required Use of Storm Chokes §1101. Scope

A. Order establishing rules and regulations concerning the required use of storm chokes to prevent blowouts or uncontrolled flow in the case of damage to surface equipment.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:1127 (October 1994), LR 37:

§1103. Applicability

A. All wells capable of flow with a surface pressure in excess of 100 pounds, falling within the following categories, shall be equipped with storm chokes:

1. any locations inaccessible during periods of storm and/or floods, including spillways;
2. located in bodies of water being actively navigated;
3. located in wildlife refuges and/or game preserves;
4. located within 660 feet of railroads, ship channels, and other actively navigated bodies of water;
5. located within 660 feet of state and federal highways in Southeast Louisiana, in that area East of a North-South line drawn through New Iberia and South of an East-West line through Opelousas;
6. located within 660 feet of state and federal highways in Northeast Louisiana, in that area bounded on the West by the Ouachita River, on the North by the Arkansas-Louisiana line, on the East by the Mississippi River, and on the South by the Black and Red Rivers;
7. located within 660 feet of the following highways:
 - a. U.S. Highway 71 between Alexandria and Krotz Springs;
 - b. U.S. Highway 190 between Opelousas and Krotz Springs;
 - c. U.S. Highway 90 between Lake Charles and the Sabine River;
8. located within the corporate limits of any city, town, village, or other municipality.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), amended LR 37:

§1104. General Requirements for Storm Choke Use at Water Locations

A. This Section only applies to oil and gas wells at water locations.

B. A subsurface safety valve (SSSV) shall be designed, installed, used, maintained, and tested to ensure reliable operation.

1. The device shall be installed at a depth of 100 feet or more below the seafloor within two days after production is established.

2. Until a SSSV is installed, the well shall be attended in the immediate vicinity so that emergency actions may be taken while the well is open to flow. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3. The well shall not be open to flow while the SSSV is removed, except when flowing of the well is necessary for a particular operation such as cutting paraffin, bailing sand, or similar operations.

4. All SSSV's must be inspected, installed, used, maintained, and tested in accordance with American Petroleum Institute Recommended Practice 14B,

Recommended Practice for Design, Installation, Repair, and Operation of Subsurface Safety Valve Systems.

C. Temporary Removal for Routine Operations

1. Each wireline or pumpdown-retrievable SSSV may be removed, without further authorization or notice, for a routine operation which does not require the approval of Form DM-4R.

2. The well shall be identified by a sign on the wellhead stating that the SSSV has been removed. If the master valve is open, a trained person shall be in the immediate vicinity of the well to attend the well so that emergency actions may be taken, if necessary.

3. A platform well shall be monitored, but a person need not remain in the well-bay area continuously if the master valve is closed. If the well is on a satellite structure, it must be attended or a pump-through plug installed in the tubing at least 100 feet below the mud line and the master valve closed, unless otherwise approved by the district manager.

4. Each operator shall maintain records indicating the date a SSSV is removed, the reason for its removal, and the date it is reinstalled.

D. Emergency Action. In the event of an emergency, such as an impending storm, any well not equipped with a subsurface safety device and which is capable of natural flow shall have the device properly installed as soon as possible with due consideration being given to personnel safety.

E. Design and Operation

1. All SSSVs must be inspected, installed, maintained, and tested in accordance with API RP 14B, Recommended Practice for Design, Installation, Repair, and Operation of Subsurface Safety Valve Systems.

2. Testing requirements. Each SSSV installed in a well shall be removed, inspected, and repaired or adjusted, as necessary, and reinstalled or replaced at intervals not exceeding 6 months for those valves not installed in a landing nipple and 12 months for those valves installed in a landing nipple.

3. Records must be retained for a period of 2 years for each safety device installed.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 37:

§1105. Waivers

A. Onshore Wells. Where the use of storm chokes would unduly interfere with normal operation of a well, the district manager may, upon submission of pertinent data, in writing, waive the requirements of this order.

B. Offshore Wells

1. The district manager, upon submission of pertinent data, in writing explaining the efforts made to overcome the particular difficulties encountered, may waive the use of a subsurface safety valve under the following circumstances, and may, in his discretion, require in lieu thereof a surface safety valve:

a. where sand is produced to such an extent or in such a manner as to tend to plug the tubing or make inoperative the subsurface safety valve;

b. when the flowing pressure of the well is in excess of 100 psi but is inadequate to activate the subsurface safety valve;

c. where flow rate fluctuations or water production difficulties are so severe that the subsurface safety valve would prevent the well from producing at its allowable rate;

d. where mechanical well conditions do not permit the installation of a subsurface safety valve;

e. in such other cases as the district manager may deem necessary to grant an exception.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended March 15, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 37:

James H. Welsh
Commissioner

1012#085

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections State Uniform Construction Code Council

State Uniform Construction Code (LAC 55:VI.301)

In accordance with the provisions of R.S. 40:1730.26, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the LSUCCC finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice than that provided in R.S. 49:953(A) as the 2009 versions of the International Building Code (IBC) and the International Residential Code take effect on January 1, 2011 as adopted in the November 20, 2010 *Louisiana Register*. This adoption omitted several revisions to the respective codes which code adversely affect the construction of buildings and residences subject to the respective codes. In order to assure necessary code requirements are met in any plan reviews or developments occurring on or after January 1, 2011, it is necessary to adopt this Emergency Rule to have the requirements in place until the corresponding permanent rules can be adopted. This Emergency Rule is promulgated in accordance with the provisions of 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. Effective January 1, 2011, the Louisiana State Uniform Construction Code is amended as follows.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.1.a. ...

i. Repealed.

1.a.ii. - 3.b.i.(b). ...

c. Additionally, IRC shall be amended as follows and shall only apply to the International Residential Code.

i. Substitute chapter 3, section R317 Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313

Automatic Fire Sprinkler Systems of the 2009 IRC. In addition chapter 3, section R 302.2, Townhouses, of the 2009 IRC, is amended as follows: Exception: a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with section R302.4. Furthermore chapter 3, section R302.2.4, Structural independence, of the 2009 IRC, is amended as follows: Exceptions: Number 5 *Townhouses* separated by a common 2-hour fire-resistance-rated wall as provided in section R302.2

ii. Amend chapter 3, section R315.2, Where Required in Existing Dwellings: when alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwellings that have attached garages or in existing dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with section R315.1.

3.c.iii. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), LR 37:

Jill Boudreaux
Undersecretary

1012#086

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Spotted Rod and Reel Fishery
(LAC 76:VII.341)

The Wildlife and Fisheries Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953, and pursuant to their authority under R.S. 56:6(10), 56:6(25)(a), 56:325.3, and 56:326.3, adopts the Declaration of Emergency set forth below to set the opening date for the commercial harvest of spotted seatrout.

Effective December 12, 2010, the commercial season for the harvest of spotted seatrout shall open, and remain open until the maximum annual quota is reached, or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, or until sunset December 31, 2010 whichever comes first.

The following modifications are established as a modification to the existing rules under the Louisiana Administrative Code Title 76 for harvest of spotted seatrout, in order to have consistent rules with the legislative rules established under the Louisiana Revised Statutes Title 56 by Act 979.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishing

§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. The commercial season for spotted seatrout whether taken from within or without Louisiana state waters shall remain closed until January 2 of each year, when it shall open and remain open until the maximum annual quota is reached, or on the date projected by the staff of the Department of Wildlife and Fisheries that the quota will be reached, whichever comes first. The commercial harvest or taking of spotted seatrout is prohibited during the period from sunset on Friday through sunrise on Monday, and there shall be no possession of spotted seatrout in excess of the recreational limit during the period between 10:00 p.m. and 5:00 a.m.

2. - 3.d....

4. The commercial taking or commercial harvesting of spotted seatrout shall be prohibited within Louisiana waters west of the Mermentau River.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S.56:6(25)(a); R.S. 56:306.5, R.S. 56:306.6, 56:325.1(A) and (B); R.S. 56:325.3; R.S. 56:326.3; Act 1316 of the 1995 Regular Legislative Session; and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006), amended LR 32:1071 (June 2006), LR 37:

The Secretary of the Department of Wildlife and Fisheries is authorized and directed to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Declaration of Emergency, including but not limited to, the preparation of reports and correspondence to other agencies of government, and the effectuation of the provisions of this Declaration of Emergency for the duration of this season.

Robert J. Barham
Secretary

1012#027

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Recreational and Commercial Fisheries Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing, effective immediately December 2, 2010, in the following area:

That portion of state and territorial waters bounded by the following coordinates: 1) 29 degrees 12 minutes 35 seconds north latitude 89 degrees 01 minutes 05 seconds west longitude, 2) 29 degrees 11 minutes 35 seconds north

latitude 89 degrees 01 minutes 10 seconds west longitude, 3) 29 degrees 11 minutes 10 seconds north latitude 89 degrees 02 minutes 00 seconds west longitude, 4) 29 degrees 11 minutes 35 seconds north latitude 89 degrees 02 minutes 55 seconds west longitude, and that portion of state inside and outside territorial waters south of the southern shore of Pass a Loutre and 29 degrees 11 minutes 25 seconds north latitude westward to 89 degrees 25 minutes 00 seconds west longitude and the eastern shore of Southwest Pass of the Mississippi River and south of 29 degrees 08 minutes 35 seconds north latitude inside of a line extending seaward one-quarter mile or more from the shoreline beginning at 29 degrees 11 minutes 25 seconds north latitude 89 degrees 03 minutes 30 seconds west longitude; thence east southeast to 29 degrees 11 minutes 00 seconds north latitude 89 degrees 02 minutes 25 seconds west longitude; thence south southwest to 29 degrees 08 minutes 55 seconds north latitude 89 degrees 06 minutes 15 seconds west longitude; thence east southeast to 29 degrees 08 minutes 15 seconds north latitude 89 degrees 02 minutes 10 seconds west longitude; thence south southwest to 29 degrees 04 minutes 50 seconds north latitude 89 degrees 04 minutes 10 seconds west longitude; thence north northwest to 29 degrees 06 minutes 00 seconds north latitude 89 degrees 06 minutes 00 seconds west longitude; thence south southwest to 28 degrees 59 minutes 35 seconds north latitude 89 degrees 08 minutes 00 seconds west longitude; thence south southwest to 28 degrees 59 minutes 15 seconds north latitude 89 degrees 08 minutes 15 seconds west longitude; thence south southwest to 28 degrees 58 minutes 20 seconds north latitude 89 degrees 10 minutes 00 seconds west longitude; thence north northwest to 29 degrees 02 minutes 40 seconds north latitude 89 degrees 16 minutes 20 seconds west longitude; thence south southwest to 28 degrees 54 minutes 40 seconds north latitude 89 degrees 25 minutes 00 seconds west longitude excluding those waters within Pass a Loutre west of 89 degrees 02 minutes 00 seconds west longitude, Northeast Pass west of 89 degrees 02 minutes 10 seconds west longitude, Southeast Pass west of 89 degrees 04 minutes 10 seconds west longitude and South Pass west of 89 degrees 08 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Barataria Waterway, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling and charter boat angling is allowed: that portion of state inside waters north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the

Barataria Waterway, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

The commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, or as needed to effectively implement the provisions herein.

Stephen W. Sagera
Vice-Chairman

1012#026

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Small Coastal Shark Commercial Season Closure

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its rule, LAC 76:VII.357.M.2, which allows the secretary authority to modify seasons to maintain consistency with the adjacent federal waters, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 11:30 p.m., November 18, 2010, the commercial fishery for Small Coastal Sharks in Louisiana waters, as described in LAC 76:VII.357.B.1, (bonnethead shark, Atlantic sharpnose shark, blacknose shark, finetooth shark) will close until further notice. This closure will not pertain to persons holding a Federal Shark Research Permit issued by NOAA Fisheries Service, when those persons are legally fishing under the regulations promulgated for that permit including that a NMFS-approved observer is aboard the vessel. Nothing herein shall preclude the legal harvest of Small Coastal Sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell small

coastal sharks, whether taken from within or without Louisiana waters, except for a Federal Shark Research Permit holder, when legally operating under that Permit. Also effective with the closure, no person shall possess Small Coastal Sharks in excess of a daily bag limit whether taken from within or without Louisiana waters, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure, or from Federal Shark Research Permit holders, provided that all commercial dealers possessing Small Coastal Sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by NOAA Fisheries Service that the harvest of Small Coastal Sharks in the federal waters of the Gulf of Mexico has closed at 11:30 p.m. local time on November 2, 2010, and will be closed until 30 days after promulgation of seasonal rules for the 2011 shark season. The commercial season for harvest of small coastal shark in Louisiana waters will remain closed until the announcement is made of the seasons for the harvest of small coastal shark in federal waters off of Louisiana. Establishing this closure is necessary to ensure that compatible regulations are in effect, and to increase effectiveness of enforcement operations.

Robert J. Barham
Secretary

1012#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Territorial Waters Shrimp Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of 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 by zone each year as it deems appropriate, 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 western shore of Freshwater Bayou Canal at 92 degrees 18 minutes 33 seconds west longitude to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at 29 degrees 03 minutes 10 seconds north latitude and 90 degrees 50 minutes 27 seconds west longitude. This closure is effective at official sunset, Tuesday, December 21, 2010.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) count per pound except during the time period from October fifteenth through the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that average white shrimp size in this portion of state outside waters is slightly larger than 100 count per pound; however, historical data indicate that significant numbers of smaller size white shrimp occupying coastal lakes and bays migrate into these waters as water

temperatures drop in conjunction with the onset of winter. 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 delay the closing date, if marketable quantities of shrimp are available for harvest, and to close to shrimping, if necessary to protect small white shrimp, any part of remaining state outside waters, if biological and technical data indicate the need to do so or if enforcement problems develop, 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 and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations.

Stephen W. Sagrera
Vice-Chairman

1012#028

Rules

RULE

Department of Children and Family Services Child Welfare Section and Economic Stability and Self-Sufficiency Section

Residential Licensing—Disqualification (LAC 48:V.6955)

Editor's Note: This Section is being repromulgated to correct a citation error. The original Rule may be viewed in its entirety on pages 831-838 of the April 20, 2010 edition of the *Louisiana Register*.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services (DSS), Office of Family Support (OFS) and Office of Community Services (OCS), promulgated rules in the *Louisiana Administrative Code* (LAC) Title 48, Part I, Subpart 3, Chapter 88, Adult Residential Care Licensing, Title 67, Part III, Subpart 21, Chapter 73, Child Day Care Licensing, and LAC Title 67, Part V, Subpart 8, Chapters 61-69, Residential Licensing pursuant to the general rule-making authority of the department under R.S. 46:51 and the specific rule-making authority over child care facilities and child placing agencies granted by the Child Care Facility and Child-Placing Agency Licensing Act, R.S. 46:1401-1426, and the specific authority to create rules for transitional living granted by the Transitional Youth Residence Act, R.S. 46:1451-1455.

State licensing regulations for child care facilities provided no disqualification period for licensees who have had a prior license revoked for failure to comply with State laws and regulations governing facilities providing out-of-home care for children and elderly or infirmed adults. This lack of specific disqualification periods had allowed substandard facilities to take temporary remedial action and reapply for a new license immediately following revocation of the previous one.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Community Services

Subpart 8. Residential Living

Chapter 69. Child Residential Care

§6955. Procedures

A. - G.2.d.

H. Disqualification from Application

1. Definitions, as used in this Section:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such child residential care home.

Department—the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403;

ii. any license issued by the department to operate any adult residential care facility as defined in R.S. 40:2153; or

iii. any license issued by the department to operate any transitional youth residence as defined in R.S. 46:1453.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. The disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010), repromulgated LR 36:1277 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2522 (November 2010), repromulgated LR 36:2838 (December 2010).

Kristy H. Nichols
Secretary

1012#030

RULE

Department of Education Board of Regents

Registration and Licensure
(LAC 28:IX.101, 103, 105, 302,
303, 305, 317, 319, and 501)

In accordance with the Administrative Procedure Act, R.S. 17:1808 et seq., the state Board of Regents has amended the rules and regulations to LAC Part IX, Regents, Rules for Registration and Licensure.

Title 28 EDUCATION Part IX. Regents

Chapter I. Rules for Registration and Licensure

§101. Definition of Terms

A. Terms used in these regulations such as *Board of Regents*, *Postsecondary*, *Academic Degree-granting Institution*, *Registration*, *Licensure*, and *Fees* shall be interpreted in accordance with R.S. 17:1808.

B. For institutions domiciled in Louisiana, the term *operate* applies to the offering of courses and programs through any modality. For institutions domiciled outside Louisiana, the term *operate* shall mean the offering of courses that are physically delivered in the state of Louisiana and/or require clinical experiences in the state of Louisiana.

C. The term *clinical experiences* shall mean site-based learning activities (e.g., clinical, internships, student teaching, practicum, field-based experiences, etc.) in settings (e.g., hospitals, schools, businesses, etc.) in which candidates are working with patients, children, teachers, principals, etc. in Louisiana and are observed/assisted/evaluated by supervisors, preceptors, coaches, teachers, principals, or other individuals to determine that course and/or program requirements have been addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 36:2839 (December 2010).

§103. Registration and License Applications

A. All public and private postsecondary, academic degree-granting institutions offering instruction in the state of Louisiana must register annually with the Board of Regents. Regular licenses are reviewed every two years. Requests for registration forms and license applications should be made in writing and addressed to:

Commissioner of Higher Education
Louisiana Board of Regents
PO Box 3677
Baton Rouge, LA 70821-3677

B. Completed registration forms and license applications should be returned to the address shown above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 36:2839 (December 2010).

§105. License Fees

A. The license application fee shall be \$750 (future increase to \$1000 upon approval of the Legislature). Those institutions granted a license to operate will be required to pay an additional \$750 (future increase to \$1000 upon approval of the Legislature) at the start of the second year of the two-year licensing period. However, the initial license application fee may be reduced to \$100 for institutions seeking initial licensure in order to allow clinical practicum experiences for fewer than five Louisiana residents enrolled in nursing and other health-related programs. In order to continue and renew their licenses, those institutions will be required to pay all subsequent fees, including renewal fees. License renewal fees are required during each subsequent two-year licensing period and are nonrefundable.

B. - C. ...

D. Institutions seeking licensure shall submit all required materials and the nonrefundable license fee to the Board of Regents. If a final determination concerning the institution's qualifications for licensure is not reached within 180 days of receipt of the license application and supporting materials, a provisional license will be issued to the institution. The provisional license will remain in effect pending a final licensing decision by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 36:2839 (December 2010).

Chapter 3. Criteria and Requirements for Licensure

§302. Institutional Accreditation

A. - B. ...

C. The Board of Regents will consider a possible waiver of the accreditation requirement in the case of single purpose institutions. This consideration will be given in extraordinary circumstances where the board determines that it would be educationally impractical for an institution to reorganize its programs and operations in order to become eligible for consideration by a U.S. Department of Education recognized accrediting association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:168 (February 1995), amended LR 36:2840 (December 2010).

§303. Faculty

A. Qualifications of Faculty

1. Faculty shall be qualified by education and experience in the fields in which they teach. Faculty must meet the following minimum requirements.

a. Faculty shall possess no less than the degree awarded to a graduate of the program in which they are teaching.

b. The faculty shall be sufficient in number to establish and maintain the effectiveness of the educational program.

B. Institutions offering advanced degrees must employ faculty who hold advanced degrees in appropriate fields from institutions accredited by recognized agencies.¹ It is required that faculty credentials be verifiable.

1. If any institution employs a faculty member whose highest earned degree is from a non-regionally-accredited institution within the United States or an institution outside the United States, the institution must show evidence that the faculty member has appropriate academic preparation.

2. It is the responsibility of the institution to keep on file for all full-time and part-time faculty members documentation of academic preparation, such as official transcripts, and if appropriate for demonstrating competency, official documentation of professional and work experience, technical and performance competency, records of publications, and certifications and other qualifications.²

¹ Recognized accrediting agencies are those approved by the United States Department of Education.

² Source: Southern Association of Colleges and Schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010).

§305. Academic Program Standards

A. - E. ...

F. For all face to face teacher/leader courses/programs with or without clinical experiences in Louisiana and all on-line teacher/leader courses/programs with clinical experiences in Louisiana that result in initial teacher or leader certification being placed on teacher/leader certificates in Louisiana, provide evidence of the pursuit or attainment of national accreditation by the National Council for Accreditation of Teacher Education (NCATE) or Teacher Education Accreditation Council (TEAC) and provide evidence of attainment of initial (Level 1) or subsequent

(Levels 2, 3, 4) approval to implement a program for initial certification of teachers and/or certification of educational leaders. (*Bulletin 996 B Standards for Approval of Teacher and Educational Leadership Preparation Programs*). Also, provide evidence of intent to adhere to the requirements of the state teacher and/or educational leadership accountability systems.

G. For all face to face teacher/leader courses/programs with or without clinical experiences in Louisiana and all on-line teacher/leader courses/programs with clinical experiences in Louisiana that do or do not result in add-on certifications/endorsements being placed on teacher/leader certificates in Louisiana, provide evidence of the pursuit or attainment of national accreditation by the National Council for Accreditation of Teacher Education (NCATE) or Teacher Education Accreditation Council (TEAC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010).

§317. Procedures for Tuition and Fee Refunds

A. - A.4.d.iii. ...

iv. refund policies for programs offering tuition/fee payments on an installment plan or programs offered through distance learning will be examined by the Board of Regents on an individual basis. Refund policies for installment programs are expected to conform generally to refund policies which appear in Subparagraphs A.4.c.i through iii and d.i through iv of this Section;

e. refunds must be paid within 45 days of the date of withdrawal of the student from the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010).

§319. Surety Bonding

A. Institutions are required to post a surety bond issued by a surety authorized to do business in the state of Louisiana in the amount of \$10,000 to cover the period of the license. These bonds are intended to protect students in the event of a sudden closure of the institution. Institutions that are also licensed and bonded under provisions set forth by R.S. 17:341 et seq., need not seek additional bonding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended LR 36:2840 (December 2010).

Chapter 5. Consumer Protection

§501. General Provisions

A. Individuals must make every reasonable effort to solve disputes directly with the institution. If a solution cannot be reached, an individual may file a written complaint with the Board of Regents. Board of Regents' staff will review the facts and intervene where appropriate. Such intervention shall not include legal action on behalf of the party, but may include additional investigation of the institution including a site visit to determine if the institution's license should be revoked.

B. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended LR 36:2840(December 2010).

Larry Tremblay
Associate Commissioner

1012#031

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Graduation Cohort, Index, and Rate (LAC 28:LXXXIII.603, 611, 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 111—The Louisiana School, District, and State Accountability System*: §603. Determining a Cohort for Graduation, §611. Documenting a Graduation Index, and §701. Subgroup Component Indicators. Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State’s Accountability System is an evolving system with different components that are required to change in response to state and federal laws and regulations.

The changes in Bulletin 111, Chapter 6, provide detail of how the cohort is determined for graduation and how a Graduation Index is documented.

The changes in Bulletin 111, Chapter 7, provide detail of the Subgroup Component Indicators and how the Graduation Rate is calculated.

**Title 28
EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 6. Graduation Cohort, Index, and Rate
§603. Determining a Cohort for Graduation**

A. - B. ...

C. Students who exit Louisiana’s Student Information System (SIS) system in less than four years for legitimate reasons shall not be included in the cohort's graduation index calculations.

1. For graduation cohort calculations, exit codes 07, 10, 14, 16, and 20 from §611 are legitimate, along with any special codes created to deal with natural disasters.

2. Beginning with accountability decisions made in fall 2010 (using 2009 grad data), the only legitimate leavers from a cohort are those who;

- a. transfer from Louisiana K-12 public education to a diploma awarding school or program;
- b. emigrate to another country;
- c. are deceased.

3. Specific documentation is required for students to be considered legitimate leavers.

a. The only acceptable documentation for transfers is a request for student records from the qualifying school or program, or a letter from an official in the receiving school or program acknowledging the students enrollment. The documentation must be clearly dated before October 1 following the student’s exit from the Louisiana Student Information System (SIS). The LDE can, during data certification and audits, require proof that the school or program is recognized as a “diploma awarding” by the state in which it is located.

b. Documentation for a student transfer to home school is a school withdrawal form with parent signature and an LDE letter of approval to the parent, both dated before October 1 following the student’s exit from the Louisiana SIS.

c. Students who emigrate to another country must be documented with a statement signed by a parent or a request for student records.

d. An obituary or a letter from a parent is sufficient documentation for a deceased student.

4. The LDE shall maintain and post on the LDE website a list of schools that are considered “non-diploma awarding.”

5. A school is classified as “non-diploma awarding” if it:

a. awards fewer than five regular diplomas a year for two consecutive years; or

b. enrolls fewer than 10 twelfth graders for a full academic year for each of two consecutive years.

c. the LDE can grant exceptions to these rules for new schools and schools with small populations upon district request if it can be determined that no circumvention of accountability consequences will occur. The district is responsible for providing any data requested by the LDE.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:424 (March 2007), LR 33:2031 (October 2007), LR 35:2312 (November 2009), LR 36:2840 (December 2010).

§611. Documenting a Graduation Index

A. Beginning with academic year 2005-2006, all schools are required to maintain the following documentation if the corresponding exit code is used.

| Exit Code Documentation | | |
|-------------------------|-----------------------|---|
| Code | Descriptions | Required Documentation |
| 01 | Expelled | Due process documentation supporting expulsion. Students must be enrolled on October 1 of the following year. |
| 03 | Illness | Letter from a physician stating the student's date(s) of care written on the doctor office's letterhead with the doctor's original signature. Students must be enrolled on October 1 of the following year. |
| 04 | Graduate with Diploma | Official transcript showing successful completion of requirements along with records supporting any academic or career/technical endorsements. |
| 05 | GED only | LDE confirmation document and entry/exit in SIS. |
| 06 | | *** |

| Exit Code Documentation | | |
|-------------------------|--|--|
| Code | Descriptions | Required Documentation |
| 07 | Death (of student) or permanent incapacitation | Letter from parent or obituary. |
| 08 | Transferred to another public school within district | SIS (Student Information System) record indicating transfer. |
| 09 | Transferred to another public school within Louisiana | SIS record indicating transfer. |
| 10 | Transferred out of state or country | Request for records from the receiving school (out of state). Request for records or a statement signed by the parent. Documentation proving a student was a foreign exchange student. |
| 12 | Transferred to Correctional Institution | SIS record indicating transfer. |
| 14 | | *** |
| 15 | | *** |
| 16 | | *** |
| 17 | Completed all Carnegie unit requirements but not the GEE | STS (Student Transcript System) record |
| 20 | | *** |
| 21 | Transferred to State school | SIS record indicating transfer. |
| 22 | Options Program Completer: GED & Industry Based Certificate | STS and/or CATE (Career and Technical Education) record |
| 23 | Options Program Completer: GED & Locally Designed Skills Certificate | STS and/or CATE record |
| 24 | Options Program Completer: Industry Based Certification | STS and/or CATE record |
| 25 | Options Program Completer: Local Skills Certificate Only | STS and/or CATE record |
| 26 | Options Program Completer: Certificate of Completion | STS and/or CATE record |
| 27 | Exit under SBESE Academic School Choice Policy | SIS record indicating transfer. |
| 28 | Exit under SBESE Unsafe School Choice Policy | SIS record indicating transfer. |

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 35:639 (April 2009), LR 35:2312 (November 2009), LR 36:2841 (December 2010).

Chapter 7. Subgroup Component

§701. Subgroup Component Indicators

A. - A. 1.c.ii. ...

d. Beginning with the fall 2010, the additional academic indicator for schools with a twelfth grade shall be evaluated using new procedures as required by the U. S. Department of Education published in High School Graduation Rate: *Non-Regulatory Guidance* (December 22, 2008).

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1026 (June 2006), amended LR 33:424 (March 2007), LR 36:2842 (December 2010).

Jeanette Vosburg
Executive Director

1012#042

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Fourth Year Review of Charter Schools on Contract Probation (LAC 28:CXXXIX.1305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools: §1305. Fourth Year Review of Charter Schools on Contract Probation*. Current policy provides that a charter school meeting certain standards in June of its fourth year of operation shall receive a one-year extension. This Rule provides that a charter school meeting certain standards in June of its fourth year of operation may receive a one-year extension, thereby giving the charter school authorizer the ability to approve or deny an extension. This Rule would guide charter school authorizers' consideration of charter school extensions upon meeting certain standards during their fourth year of operation.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 13. Charter Term

§1305. Fourth Year Review of Charter Schools on Contract Probation

A. A charter school granted a one-year extension and placed on probation after its third year of operation pursuant to §1303.B.2 shall comply with all conditions of probation established by BESE and the Department of Education Charter School Office.

1. A charter school meeting the following standards in January of its fourth year of operation may receive a one-year extension, at the conclusion of its fourth year:

- a. all financial performance standards;
- b. all legal and contractual standards; and
- c. one of following student performance measures:
 - i. Baseline SPS Year Three is 60.0 or above; or
 - ii. Growth SPS met.

2. A charter school meeting the following standards in June of its fourth year of operation may receive a one-year extension:

- a. all financial performance standards;
- b. all legal and contractual standards; and
- c. one of the following student performance standards:

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—CTTIE-1 and CTTIE-2 Certificates (LAC 28:CXXXI.505)

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*: §505. CTTIE-1 and CTTIE-2 Certificates. This revision will align Career and Technical Trade and Industrial Education (CTTIE) certified nursing assistant and certified nursing assistant program coordinator eligibility requirements with guidelines of the Louisiana Department of Health and Hospitals. Recently the Louisiana Department of Health and Hospitals revised their guidelines on certification of nurse assistant instructors. Due to the revisions, the requirements of CTTIE Certified Nursing Assistant (CNA) and Certified Nursing Assistant Program Coordinator must reflect those changes as well. All applicants must hold an approved CTTIE prior to providing CNA instruction.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 5. Standards for Secondary Career and Technical Trade and Industrial Education Personnel

§505. CTTIE-1 and CTTIE-2 Certificates

A. - B.5. ...

C. Certified Nursing Assistant (CNA) Eligibility Requirements

1. Applicant must be a professional nursing program graduate with current Louisiana licensure as a registered nurse (RN) or practical nurse (PN).

2. Applicant must have a minimum of two of the past four years of experience in staff nursing or PN or RN nursing education. One year of this experience must be in caring for the elderly or chronically ill.

3. Licensed practical nurses (LPN) may serve as a certified nursing assistant instructor under the direct supervision of a registered nurse. LPNs, under the general supervision of the primary instructor, may provide classroom and skills training instruction and supervision if they have two years of experience in caring for the elderly and/or chronically ill. Applicant must submit a letter from the district CTE supervisor with the name of the RN supervisor.

4. All instructors must have a CNA "Train the Trainer Certificate" and meet Certified Nursing Assistant Regulations, as mandated by the Louisiana Department of Health and Hospitals (DHH)-Health Standards Section.

5. A Certified Nurse Assistant (CNA) instructor must be approved by the Louisiana Department of Education, Career and Technical Education (CTE) office.

6. Applicant must have an approved Nurse Assistant (511614.000) CTTIE-1 prior to CNA instruction.

i. Assessment Index Year Four is 60.0 or above;

or

ii. Required Growth of 10 points has been met.

B. A charter school not meeting the standards set forth in §1305.A.1 shall be recommended for revocation of its charter and shall proceed to a revocation hearing as set forth in Chapter 17 of this bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), LR 36:2842 (December 2010).

Jeanette Vosburg
Executive Director

1012#043

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Application Packet (LAC 28:CXXXI.805)

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*: §805. Application Packet. This revision will require certification appeal requests to be submitted directly to the Division of Certification, Leadership, and Preparation. This revision of policy will eliminate appeal requests being submitted to the State Board of Elementary and Secondary Education for processing. This revision in Bulletin 746 clarifies the appeal application process.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 8. Certification Appeal Process

§805. Application Packet

A. An individual seeking an appeal of his/her certification decision is advised to read carefully all information about completing the Certification Appeal Application before beginning the process. The complete application packet is located on the Teach Louisiana website. If there are questions regarding the appeal packet, an applicant can contact the Division of Certification, Leadership, and Preparation at 225-342-3490.

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, LR 32:1829 (October 2006), amended LR 36:2843 (December 2010).

Jeanette Vosburg
Executive Director

1012#044

D. Certified Nursing Assistant, Program Coordinator—Eligibility Requirements. The program coordinator must be a registered nurse (RN) and must have the following experience and qualifications:

1. current Louisiana licensure as a registered nurse (RN);
2. a minimum of two years of nursing experience, of which at least one year must be in caring for the elderly or chronically ill, obtained through employment in any of the following:
 - i. a nursing facility/unit;
 - ii. a geriatrics department;
 - iii. a chronic care hospital;
 - iv. other long-term care setting; or
 - v. experience in varied responsibilities including, but not limited to, direct resident care or supervision and staff education;
3. completion of VTIE, CTTIE, CNA "Train-the-Trainer" type program or a master's degree or higher;
4. all instructors must meet requirements mandated by the Louisiana Department of Health and Hospitals (DHH)-Health Standards Section;
5. applicant must have an approved Nurse Assistant (511614.000) CTTIE-1 prior to CNA instruction.

E. - G3. ...

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, LR 32:1813 (October 2006), amended LR 35:2752 (December 2009), LR 36:2843 (December 2010).

Jeanette Vosburg
Executive Director

1012#045

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Louisiana Teacher Preparation Programs (LAC 28:CXXXI.Chapter 2)

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*: §205. Minimum Requirements for Approved Regular Education Programs for Grades PK-3: Adopted May 24, 2001; Effective July 1, 2002; §207. Minimum Requirements for Approved Regular Education Programs for Grades 1-5: Adopted May 24, 2001; Effective July 1, 2002; §209. Minimum Requirements for Approved Regular Education Programs for Grades 4-8: Adopted May 24, 2001; Effective July 1, 2002; §211. Minimum Requirements for Approved Regular Education Programs for Grades 6-12: Adopted May 24, 2001; Effective July 1, 2002; §213. College of Arts/Humanities/Sciences Degree Pathway to Secondary Education Certification (Grades 6-12): Adopted November 18, 2003; Effective January 1, 2004; and §215. Minimum Requirements for

Approved Regular Education All-Level Programs for Grades K-12: Adopted November 2003; Effective August 1, 2005. This policy revision of Louisiana traditional teacher preparation programs will allow the following reductions: (1) require fewer “flexible credit hours” for the grades PK-3, 1-5, 4-8, and K-12 baccalaureate programs which will decrease the total minimum credit hours from 124 to 120; and (2) Eliminate the secondary focus areas (e.g., minor with 19 credit hours) in the grades 6-12 baccalaureate programs and only require the primary focus areas (major with 31 or more credit hours). This policy complies with Postsecondary Commission’s recommendation to reduce the number of credit hours for a baccalaureate degree.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 2. Louisiana Teacher Preparation Programs Subchapter A. Traditional Teacher Preparation Programs

§205. Minimum Requirements for Approved Regular Education Programs for Grades PK-3: Adopted May 24, 2001; Effective July 1, 2002

A. For certification as a teacher in grades pre-kindergarten through third (PK-3) in the state of Louisiana, the focus is on the areas of Early Childhood, Reading/Language Arts, and Mathematics.

1. General Education—39 semester hours. Requirements provide the prospective PK-3 teacher with basic essential knowledge and skills.

| | |
|----------------|-------------------|
| English | 12 semester hours |
| Mathematics | 9 semester hours |
| Sciences | 9 semester hours |
| Social studies | 6 semester hours |
| Arts | 3 semester hours |

2. Focus on Early Childhood, Reading/Language Arts, and Mathematics—33 semester hours. Requirements provide a greater depth of knowledge in early childhood education.

| | |
|---|-------------------|
| Nursery school and kindergarten coursework | 12 semester hours |
| Reading/language arts (Additional Content and Teaching Methodology) | 12 semester hours |
| Mathematics | 9 semester hours |
| Knowledge of the Learner and the Learning Environment, with the Emphasis on Early Childhood | 15 semester hours |

a. Requirements provide the prospective PK-3 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child, as follows:

- i. child/adolescent development/psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

3. Methodology and Teaching—15 semester hours: Requirements provide the prospective PK-3 teacher with fundamental pedagogical skills.

| | |
|---|--------------------|
| Teaching methodology | 6 semester hours |
| Student teaching | 9 semester hours |
| Flexible hours for the university's use | 18 semester hours |
| Total required hours in the program | 120 semester hours |

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, LR 32:1783 (October 2006), amended LR 36:2844 (December 2010).

§207. Minimum Requirements for Approved Regular Education Programs for Grades 1-5: Adopted May 24, 2001; Effective July 1, 2002

A. For certification as a teacher in elementary grades 1-5 in the state of Louisiana, the focus is on the areas of Reading/Language Arts and Mathematics.

1. General Education—54 semester hours. Requirements provide the prospective elementary grades 1-5 teacher with basic essential knowledge and skills.

| | |
|----------------|-------------------|
| English | 12 semester hours |
| Mathematics | 12 semester hours |
| Sciences | 15 semester hours |
| Social studies | 12 semester hours |
| Arts | 3 semester hours |

2. Focus on Reading/Language Arts and Mathematics—21 semester hours. Requirements provide the prospective elementary grades 1-5 teacher with fundamental pedagogical skills.

| | |
|---|-------------------|
| Reading/language arts (additional content and teaching methodology) | 12 semester hours |
| Mathematics (additional content and teaching methodology) | 9 semester hours |
| Knowledge of the Learner and the Learning Environment, with the Emphasis on the Elementary School Student | 15 semester hours |

a. Requirements provide the prospective elementary grades 1-5 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child, as follows:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

3. Methodology and Teaching: 15 semester hours. Requirements provide the prospective elementary grade 1-5 teacher with fundamental pedagogical skills.

| | |
|---|--------------------|
| Teaching methodology | 6 semester hours |
| Student teaching | 9 semester hours |
| Flexible hours for the university's use | 15 semester hours |
| Total required hours in the program | 120 semester hours |

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, LR 32:1784 (October 2006), amended LR 36:2845 (December 2010).

§209. Minimum Requirements for Approved Regular Education Programs for Grades 4-8: Adopted May 24, 2001; Effective July 1, 2002

A. For certification as a teacher in middle grades 4-8 in the state of Louisiana, the focus is on two in-depth teaching areas.

1. General Education—54 semester hours. Requirements provide prospective middle grades 4-8 teachers with basic essential knowledge and skills.

| | |
|----------------|-------------------|
| English | 12 semester hours |
| Mathematics | 12 semester hours |
| Sciences | 15 semester hours |
| Social Studies | 12 semester hours |
| Arts | 3 semester hours |

2. Focus Area #1-19 hours total combined general education and focus area coursework.

| | |
|----------------|-----------------|
| English | 7 or more hours |
| Mathematics | 7 or more hours |
| Social Studies | 7 or more hours |
| Science | 4 or more hours |

3. Focus Area #2—19 hours total combined general education and focus area coursework.

| | |
|----------------|-----------------|
| English | 7 or more hours |
| Mathematics | 7 or more hours |
| Social Studies | 7 or more hours |
| Science | 4 or more hours |

4. Knowledge of the Learner and the Learning Environment, with the Emphasis on the Middle School Student—15 semester hours.

a. Requirements provide the prospective middle grades 4-8 teacher with a fundamental understanding of the learner and the teaching and learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development/psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

5. Methodology and Teaching—24 semester hours. Requirements provide the prospective middle grades 4-8 teacher with fundamental pedagogical skills.

| | |
|---|----------------------|
| Teaching methodology | 9 semester hours |
| Reading | 6 semester hours |
| Student teaching | 9 semester hours |
| Flexible hours for the university's use | 13-16 semester hours |
| Total required hours in the program | 120 semester hours |

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, LR 32:1784 (October 2006), amended LR 36:2845 (December 2010).

§211. Minimum Requirements for Approved Regular Education Programs for Grades 6-12: Adopted May 24, 2001; Effective July 1, 2002

A. For certification as a secondary teacher in grades 6-12 in the state of Louisiana, the focus is on content in the teaching area.

1. General Education—30 semester hours. Requirements provide prospective secondary grades 6-12 teachers with basic essential knowledge and skills.

| | |
|----------------|------------------|
| English | 6 semester hours |
| Mathematics | 6 semester hours |
| Sciences | 9 semester hours |
| Social Studies | 6 semester hours |
| Arts | 3 semester hours |

2. Focus Area—A total of 31 hours of combined general education and focus area coursework. These focus hours prepare a prospective secondary teacher of grades 6-12 in the content area essential to the certification area.

| | |
|---|------------------|
| English, Social Studies, or Mathematics | 25 or more hours |
| -or- | |
| Science | 22 or more hours |
| -or- | |
| Other focus areas | 31 or more hours |

3. Knowledge of the Learner and the Learning Environment, with the Emphasis on the Secondary School Student—15 semester hours.

a. Requirements provide the prospective secondary grades 6-12 teacher with a fundamental understanding of the learner and the teaching/learning process. Coursework should address the needs of the regular and the exceptional child:

- i. child/adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

4. Methodology and Teaching—18 semester hours. Requirements provide the prospective secondary grade 6-12 teacher with fundamental pedagogical skills.

| | |
|---|----------------------|
| Teaching methodology | 6 semester hours |
| Reading | 3 semester hours |
| Student teaching | 9 semester hours |
| Flexible hours for the university's use | 26-35 semester hours |
| Total required hours in the program | 120 semester hours |

NOTE: The following areas are approved primary teaching focus areas, to include a minimum of 31 semester hours of credit: Agriculture; Biology; Business; Chemistry; Computer Science; Earth Science; English; Environmental Science; Family and Consumer Sciences; a specific Foreign Language; General Science; Marketing; Mathematics; Physics; Social Studies; Speech; Technology Education.

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, LR 32:1785 (October 2006), amended LR 36:2846 (December 2010).

§213. College of Arts/Humanities/Sciences Degree Pathway to Secondary Education Certification (Grades 6-12): Adopted November 18, 2003; Effective January 1, 2004

A. This certification structure identifies courses that candidates must complete if pursuing a degree through the College of Arts/Humanities/Sciences, with an education minor, to become certified to teach secondary grades 6-12.

1. General Education—30 semester hours. These requirements provide prospective secondary grades 6-12 teachers with basic essential knowledge and skills.

| | |
|----------------|------------------|
| English | 6 semester hours |
| Mathematics | 6 semester hours |
| Sciences | 9 semester hours |
| Social Studies | 6 semester hours |
| Arts | 3 semester hours |

2. Focus Areas—Content Area (semester hours can include general education coursework, if appropriate, and additional coursework)—31 semester hours.

3. Focus Areas—Education—33 semester hours.

a. Knowledge of the Learner and the Learning Environment with the Emphasis on the Secondary School Student—15 semester hours:

- i. adolescent development or psychology;
- ii. educational psychology;
- iii. the learner with special needs;
- iv. classroom organization and management;
- v. multicultural education.

b. Methodology and Teaching—18 semester hours. Requirements provide the prospective secondary grades.

- i. 6-12 teacher with fundamental pedagogical skills:
- ii. teaching methodology (six semester hours);
- iii. reading (three semester hours);
- iv. student teaching (nine semester hours).

4. Flexible hours for the university's use—26-35 semester hours. The number of flexible hours is dependent upon the number of general education courses in English, mathematics, science, and social studies that can be applied toward the major. The number of hours for a content area focus should be a minimum of 31 hours, and the total curriculum (including flexible hours) should be 120 hours.

5. Total required hours in the program 120 semester hours.

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, LR 32:1785 (October 2006), amended LR 36:2846 (December 2010).

§215. Minimum Requirements for Approved Regular Education All-Level Programs for Grades K-12: Adopted November 2003; Effective August 1, 2005

A. General Education—A minimum of 30 semester hours of credit designed to develop a broad cultural background. The work must be taken in the following five areas.

| | |
|----------------|------------------|
| English | 6 semester hours |
| Mathematics | 6 semester hours |
| Sciences | 9 semester hours |
| Social Studies | 6 semester hours |
| Arts | 3 semester hours |

B. Focus Area

| | |
|-------------------------------|--|
| Art | 28 semester hours of Art coursework |
| Dance | 31 semester hours of Dance coursework |
| Health and Physical Education | 31 semester hours of Health and Physical Education coursework |
| Vocal Music | 31 semester hours of Vocal Music coursework |
| Instrumental Music | 31 semester hours of Instrumental Music coursework |
| Vocal and Instrumental Music | 50 semester hours vocal and instrumental music coursework |
| Foreign Language | 31 semester hours of the language (If French, at least 12 hours must be earned through a two (2) semester residence in a university abroad or through two (2) summers of intensive immersion study on a Louisiana campus, an out-of-state university, or abroad) |

C. Knowledge of the Learner and the Learning Environment—18 semester hours.

1. Coursework should address needs of the regular and exceptional child and certification grade categories PK-3, 1-5, 4-8, and 6-12:

- a. child development;
- b. adolescent psychology;
- c. educational psychology;
- d. the learner with special needs;
- e. classroom organization and management;
- f. multicultural education.

D. Methodology and Teaching—18 semester hours.

| | |
|-------------------------------------|---------------------|
| Reading | 3 semester hours |
| Teaching methodology | 6 semester hours |
| Student teaching | 9 semester hours |
| Flexible hours for university use | 4-26 semester hours |
| Total required hours in the program | 120 semester hours |

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, LR 32:1786 (October 2006), amended LR 36:2847 (December 2010).

Jeanette Vosburg
Executive Director

1012#046

RULE

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Definitions of Schools and Early Childhood Programs (LAC 28:LXXIX.107, 115, 905, 2103, and 3303)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*: §107. School Approval, §115. Early Childhood/Pre-Kindergarten/Kindergarten, §905. Age Requirements, §2103. Minimum Time Requirements, and §3303. Definitions. These revisions change the definition of a school and provide a definition of early childhood programs as required by federal guidelines. These changes will allow children who qualify to receive services from federal programs.

Title 28

EDUCATION

Part LXXIX. Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators

Chapter 1. Operation and Administration

§107. School Approval

A. In order to benefit from state and federal funds, each approved school shall meet and maintain the following standards:

1. the school must have a state approval classification;
2. the school must be in compliance with *Brumfield vs. Dodd*; and
3. the school must be a nonprofit institutional day or residential school that provides elementary education, secondary education, or both.

B. A school which does not meet these standards may not hold any classification category listed in this section and may not benefit from state and federal funds. This requirement applies to schools submitting an initial application for school approval and schools which are currently approved.

C. Each state-approved nonpublic school receiving state and/or federal funds shall permit all colleges, universities and branches of the military to have equal access to the schools for the purpose of recruitment.

D. When applying to the State Department of Education for a classification category, all nonpublic schools seeking state approval shall include all grades/programs taught at the school.

1. Classification Categories. Schools shall be classified according to the following categories.

a. Approved (A)—school meets all standards specified in Standards for Approval of Nonpublic Schools.

b. Provisionally Approved (PA)—school has some deficiencies in standards, such as: class size and number(s) of the faculty teaching in an area of which qualifications specified are not met, etc.

c. Probationally Approved (P)—school has one or more of the following deviations from standards:

- i. principal does not hold a master's degree or principalship certification;
- ii. non-degreed teacher with fewer than five years teaching experience is employed;
- iii. school has been on provisional approval for the previous two years for the same deficiency.
- d. Unapproved (U)—school maintains any of the above-mentioned deviations from standards which placed it in the probationally approved category the preceding year. A school may not maintain a probationally approved category for two consecutive years. A school which loses annual school approval shall become ineligible for state and federal funding.

E. The Department of Education shall submit to the SBESE a yearly report recommending the classification status of the nonpublic schools in accordance with the nonpublic school standards.

F. After the annual school reports are submitted by the State Department of Education to the State Board of Elementary and Secondary Education (SBESE) for approval, all nonpublic schools seeking to change their classification category must submit their request to the SBESE.

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, LR 29:2342 (November 2003), amended LR 31:3073 (December 2005), LR 36:2847 (December 2010).

§115. Early Childhood/Pre-Kindergarten/Kindergarten

A. The local educational governing authority shall have the option of establishing an early childhood program, a pre-kindergarten and/or kindergarten program on a half-day or full-day schedule.

B. The early childhood program and/or pre-kindergarten program shall be listed on the annual school report when operated as a developmental program(s) within the total school program or when operated as separate program(s).

C. The term *early childhood* includes developmental programs for children ages 3-4, the minimum age being a child's third birthday. Children in early childhood programs are eligible to enter pre-kindergarten and kindergarten at the established age requirement for each program.

D. The term *pre-kindergarten* includes developmental programs for children. The minimum age for pre-kindergarten shall be one year younger than the age requirement for that child to enter kindergarten.

E. Early childhood programs and pre-kindergarten programs may be operated as part of an approved elementary school program in conjunction with other grades or may be operated solely as an approved early childhood programs and/or pre-kindergarten program. These approved programs are considered to be elementary schools.

F. Non-public schools are not required to offer early childhood programs and/or pre-kindergarten programs nor are children required to attend these programs.

G. Any other program which operates in a school as a childcare program shall follow the day care standards as prescribed by the appropriate state agency and is not to be listed on the annual school report.

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, LR 29:2343 (November 2003), amended LR 31:3073 (December 2005), LR 36:2848 (December 2010).

Chapter 9. Student Services
§905. Age Requirements

A. The minimum age for early childhood programs shall be a child's third birthday.

B. The minimum age for pre-kindergarten shall be one year younger than the age requirement for that child to enter kindergarten.

C. The minimum age for kindergarten shall be one year younger than the age requirement for that child to enter first grade.

D. Each school system and/or independent school may adopt by rule and enforce ages for entrance into first grade in school. It is recommended that a child entering first grade be six years of age on or before September 30 of that school year.

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, LR 29:2348 (November 2003), amended LR 31:3078 (December 2005), LR 36:2848 (December 2010).

Chapter 21. Curriculum and Instruction
Subchapter B. Elementary Program of Studies
§2103. Minimum Time Requirements

A. Early Childhood Programs/Pre-Kindergarten/Kindergarten

1. The early childhood, pre-kindergarten, and/or kindergarten elementary school grades should be planned to meet the developmental needs of young children and should be informal in nature, with teacher-directed and student-initiated activities.

2.a. - 3.b. ...

B. Elementary Schools

1. Nonpublic elementary schools first through eighth grades shall devote no less than 50 percent of the school day to the skill subjects: reading, language arts, and mathematics. The remainder of the school day shall be devoted to social studies, science, health and physical education, and electives such as religion, foreign languages, and visual and performing arts.

2. - 6.m. ...

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, LR 29:2349 (November 2003), amended LR 31:3080 (December 2005), LR 34:229 (February 2008), LR 36:2848 (December 2010).

Chapter 33. Glossary
§3303. Definitions

* * *

Early Childhood Programs—developmental programs for children ages 3-4, the minimum age being a child's third birthday. Children in early childhood programs are eligible

to enter pre-kindergarten and kindergarten at the established age requirement for each program.

* * *

Elementary School—a school composed of any span of grades early childhood, pre-kindergarten, and/or kindergarten through the eighth grade.

* * *

Pre-Kindergarten—developmental programs for children who are no more than one year younger than the age established for kindergarten.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:230 (February 2008), LR 36:2848 (December 2010).

Jeanette Vosburg
Executive Director

1012#047

RULE

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Professional Staff Development (LAC 28:LXXIX.305)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended the *Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*: §305. Professional Staff Development. This revision changes the professional development requirement for nonpublic school teachers from an indeterminate number of faculty meetings to two full days of professional development. This change reflects what is currently occurring in most nonpublic schools and aligns with what is required for public schools.

Title 28 EDUCATION

Part LXXIX. Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Programs of Study

Chapter 3. Certification of Personnel §305. Professional Staff Development

A. A minimum of two days of professional development shall be held each school year.

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, LR 29:2344 (November 2003), amended LR 31:3075 (December 2005), LR 36:2849 (December 2010).

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1012#048

RULE

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Programs of Study (LAC 28:LXXIX.2109 and 2323)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Programs of Study*: §2109. High School Graduation Requirements and §2323. Mathematics. These revisions change the name of a math course.

Title 28 EDUCATION

Part LXXIX. Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Programs of Study

Chapter 21. Curriculum and Instruction Subchapter C. Secondary Schools

§2109. High School Graduation Requirements

A. - D.4. ...

E. For incoming freshmen in 2009-2010 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following:

1. english—4 units, shall be English I, II, III, and IV;
2. mathematics—4 units, shall be:
 - a. algebra I (1 unit) or algebra I-Pt. 2;
 - b. geometry;
 - c. algebra II;

d. the remaining unit shall come from the following: financial mathematics, math essentials, advanced mathematics I, advanced mathematics II, pre-calculus, calculus, probability and statistics, discrete mathematics, or a locally-initiated elective approved by BESE as a math substitute.

E.3. - F.7. ...

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, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010).

Chapter 23. High School Program of Studies §2323. Mathematics

A. Effective for 2009-2010 incoming freshmen, four units of mathematics shall be required for graduations. All students must complete the following:

1. algebra I (1 unit) or algebra I-pt. 1 and algebra I-pt. 2 (2 units);
2. geometry;
3. the remaining units shall come from the following:
 - a. algebra II;
 - b. financial mathematics;
 - c. math essentials;
 - d. advanced mathematics I;

- e. advanced mathematics II;
- f. pre-calculus;
- g. calculus;
- h. probability and statistics;
- i. discrete mathematics; or
- j. a locally-initiated elective approved by BESE as a math substitute.

B. Three units of mathematics are required for graduation. Effective for incoming freshmen between 2005-2006 and 2008-2009, all students must:

1. complete one of the following:
 - a. algebra I (1 unit); or
 - b. algebra I-pt. 1 and algebra I-pt. 2 (2 units); or
 - c. integrated mathematics I (1 unit);
2. the remaining unit(s) shall come from the following:
 - a. integrated mathematics II;
 - b. integrated mathematics III;
 - c. geometry;
 - d. algebra II;
 - e. financial mathematics;
 - f. advanced mathematics I;
 - g. advanced mathematics II;
 - h. pre-calculus;
 - i. calculus;
 - j. probability and statistics;
 - k. discrete mathematics.

C. For incoming freshmen between 1998 and 2004-2005, the three required mathematics units shall be selected from the following courses and may include a maximum of two entry level courses (designated by E):

1. introductory algebra/geometry (E);
2. algebra I-part 1 (E);
3. algebra I-part 2;
4. integrated mathematics I (E);
5. integrated mathematics II;
6. integrated mathematics III;
7. applied mathematics 1 (E);
8. applied mathematics II;
9. applied mathematics III;
10. algebra I (E);
11. geometry;
12. algebra II;
13. financial mathematics;
14. advanced mathematics I;
15. advanced mathematics II;
16. pre-calculus;
17. calculus;
18. probability and statistics; and
19. discrete mathematics.

| Course Title | Unit(s) |
|---------------------------|---------|
| Advanced Mathematics I | 1 |
| Advanced Mathematics II | 1 |
| Algebra I | 1 |
| Algebra I-Part I | 1 |
| Algebra I-Part II | 1 |
| Algebra II | 1 |
| Calculus | 1 |
| Discrete Mathematics | 1 |
| Financial Mathematics | 1 |
| Geometry | 1 |
| Integrated Mathematics I | 1 |
| Integrated Mathematics II | 1 |

| Course Title | Unit(s) |
|----------------------------|---------|
| Integrated Mathematics III | 1 |
| Pre-Calculus | 1 |
| Probability and Statistics | 1 |
| Math Essentials | 1 |

D. Financial mathematics may be taught by the Business Education Department.

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, LR 29:2354 (November 2003), amended LR 30:2776 (December 2004), LR 31:3086 (December 2005), LR 34:2101 (October 2008), LR 36:2849 (December 2010).

Jeanette Vosburg
Executive Director

1012#049

RULE

Board of Elementary and Secondary Education

Recovery School District; Standing and Executive Committees; and Advisory Councils
(LAC 28:I.313, 501, and 503)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended the Louisiana Administrative Code, Title 28, Part I, §313. The Recovery School District, §501. Standing and Executive Committees, and §503. Advisory Councils.

Louisiana Administrative Code, Title 28, Part I, Section 313.A.1.b.ii. contains reference to a statutory date set by Louisiana Revised Statute 17:10.7.A.(2). The Louisiana Administrative Code citation is being revised to change November 15, 2008 to the current statutory date November 15, 2009.

Louisiana Administrative Code, Title 28, Part I, Section 501. contains the committee structure for the Board of Elementary and Secondary Education. A committee is being added to this structure to assist the board in the exercise of its powers and responsibilities as defined in the constitution and by law.

Louisiana Administrative Code, Title 28, Part I, Section 503.C.2. contains the authority, charge and membership of the Adult Education Advisory Council. The Adult Education Advisory Council will no longer exist as an advisory council and all references are being removed from the Louisiana Administrative Code.

Louisiana Administrative Code, Title 28, Part I, Section 503.C.3. contains the authority, charge and membership of the Louisiana Educational Assessment Testing Commission(LEATC). Act 438 of the 2009 Regular Session of the Louisiana State Legislature abolished the commission and removed all references to powers, duties and functions. As a result of Act 438, LEATC will no longer exist as an advisory council and all references are being removed from the Louisiana Administrative Code.

Louisiana Administrative Code, Title 28, Part I, Section 503.C.7 and Section 501.B.4.f contain the authority, charge

and membership of the Teachers Certification Appeals Council. Act 31 of the 2009 Regular Session of the Louisiana Legislature changed the authority, charge and membership of the Teachers Certification Appeals Council making the current language regarding this council obsolete. BESE is deleting Teacher Certification Appeals Council language in these Sections.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 3. Composition and General Authority

§313. The Recovery School District

A. - A.1.b.i. ...
ii. No additional schools shall be transferred to the Recovery School District pursuant to R.S. 17:10.7 on or after November 15, 2009.

A.1.b.iii. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(B), R.S. 17:10.5, R.S. 17:10.6, R.S. 17:1990, R.S. 17:3973 and R.S. 36:651(F).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:413 (March 2008), amended LR 36:2851 (December 2010).

Chapter 5. Organization

§501. Standing and Executive Committees

- A. - B.3.d. ...
4. Quality Leaders/Educators Committee. The following are examples of issues that will be considered by the Quality Leaders/Educators Committee:
 - a. leadership development;
 - b. professional development;
 - c. professional accountability;
 - d. certification/articulation;
 - e. approval of teacher education programs and units;
 - f. commission(s)/task forces; and
 - g. bulletin(s).
 5. Recovery School District Committee. The following are examples of issues that will be considered by the Recovery School District Committee:
 - a. RSD-NO;
 - b. RSD-LA;
 - c. RSD finance/budget;
 - d. RSD master plan;
 - e. RSD commission(s)/task forces;
 - f. RSD bulletin(s)/administrative handbooks; and
 - g. charter schools (Type 5).
 6. State Authorized School Oversight Committee. The following are examples of issues that will be considered by the State Authorized School Oversight Committee:
 - a. SSD/BSS;
 - b. school approval: Brumfield vs. Dodd and nonpublic;
 - c. commission(s)/task forces;
 - d. bulletin(s)/administrative handbooks; and
 - e. charter schools (Types 1, 2, 3, and 4).
 7. Student/School Performance and Support Committee. The following are examples of issues that will be considered by the Student/School Performance and Support Committee:
 - a. assessment issues: LEAP, GEE, iLEAP, remediation;

- b. accountability issues: school performance, interventions, improvements;
- c. academically at-risk schools;
- d. school choice, vouchers, supplemental education services;
- e. district dialogues;
- f. curriculum: content standards, GLEs, comprehensive curriculum, textbooks, elective courses;
- g. alternative schools/programs;
- h. special education;
- i. early childhood;
- j. school and community support;
- k. adult education;
- l. commission(s)/task forces; and
- m. bulletin(s).

C - C.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 35:223 (February 2009), LR 35:1874 (September 2009), LR 36:2851 (December 2010).

§503. Advisory Councils

- A. - C.1.c.iv. ...
2. Nonpublic School Commission
 - a. Authority: per state statute (R.S. 17:11).
 - b. Membership: 11 members, one member recommended by each board member, representing approved nonpublic schools.
 - c. Referrals/Responsibilities
 - i. Advise and counsel with the board relative to standards and guidelines affecting nonpublic schools.
 - ii. Consider all matters referred by the board.
 3. Superintendents' Advisory Council
 - a. Authority: per BESE policy.
 - b. Membership: 22 members as follows:
 - i. 22 members, two city, parish, or other local public school superintendents recommended by each of the eight elected board members, within his/her district, if possible. The three at-large members should each appoint two city, parish, or other local public school superintendents from BESE Districts 3-8, with no more than one appointment per BESE district. It is recommended that the composition reflect all sizes of systems and be equitable in the regions represented, to the extent possible;
 - ii. the president of the Louisiana Association of School Superintendents (LASS) shall serve as chair of the council. In the event the president of LASS is not an appointed member of the council, the membership shall expand to 23 members during the term of service of that individual;
 - iii. attendance. Members who cannot attend a meeting may appoint another superintendent from his/her BESE district to represent him/her, and the proxy shall have the same voting privileges;
 - iv. expenses. Members shall not receive reimbursement for travel expenses from the board.
 - c. Referrals/Responsibilities
 - i. Consider all matters referred by the board.
 - ii. Recommendations from the Superintendents' Advisory Council shall go to the appropriate board committee. The department shall provide responses to the various recommendations.

4. Special Education Advisory Council

a. Authority. Pursuant to federal law and regulations (34 CFR 300.650-652) and to state law (R.S. 17:1954), the Special Education Advisory Council is created to assist the board in its programmatic and budgetary responsibilities for special education programs.

b. Membership: 17 members as follows. A majority of the voting members of the panel (nine) shall be individuals with disabilities or parents of children with disabilities, ages birth through 26. The advisory council shall be representative of the state population and composed of individuals involved in, or concerned with, the education of children with disabilities:

i. 11 members, one member recommended by each board member, from the following categories:

(a) two parents of children with disabilities (ages birth through 26);

(b) one individual with a disability;

(c) one special education teacher;

(d) one regular education teacher;

(e) two representatives of institutions of higher education that prepare special education and related services personnel;

(f) one local education official;

(g) one administrator of a program for children with disabilities;

(h) one representative of a private school;

(i) one representative of a public charter school;

ii. one representative of a state agency involved in the financing or delivery of related services to children with disabilities, recommended by the Department of Health and Hospitals;

iii. one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities, recommended by Louisiana Rehabilitation Services;

iv. one administrator of a program for children with disabilities, recommended by a USDOE designated Parent Training and Information Center;

v. one representative from the state juvenile/adult corrections agencies, recommended by the Department of Public Safety/Corrections;

vi. one state or local education official who carries out activities of the McKinney-Vento Homeless Assistance Act, recommended by the Louisiana State Superintendent of Education;

vii. one representative from the state child welfare agency responsible for foster care, recommended by the Department of Children and Family Services.

c. Referrals/Responsibilities

i. Advise the state educational agency of unmet needs within the state in the education of children with disabilities.

ii. Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities.

iii. Advise the state educational agency in developing evaluations and reporting on data to the U.S. Secretary of Education.

iv. Advise the state educational agency in developing corrective action plans to address findings identified in federal monitoring reports.

v. Advise the state educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

vi. Review and comment on the department's recommendations for disbursement of competitive grants and awards to local education agencies and qualified nonprofit entities; and

vii. Consider all matters referred by the board.

5. Textbook/Media/Library Advisory Council

a. Authority: per BESE policy.

b. Membership: 14 members as follows:

i. one member of the legislature (state senator), recommended by the Senate President;

ii. one member of the legislature (state representative), recommended by the Speaker of the House;

iii. one member recommended by the governor; and

iv. 11 members, one member recommended by each board member, from the following categories:

(a) one teacher, grades K-6;

(b) one teacher, grades 7-12;

(c) one teacher (any grade) or coordinator of technology;

(d) two school librarians;

(e) one curriculum supervisor;

(f) two textbook supervisors;

(g) one parent or business representative;

(h) one LEA superintendent; and

(i) one school principal.

c. Referrals/Responsibilities

i. Advise the board on policy and procedure issues relating to the textbook adoption process.

ii. Consider all matters referred by the board.

d. Special Advisory Committees. Special advisory committees may be created by the board with a limited charge and scope to study a specific topic as referred by the board.

D. - F.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(A)(15), R.S. 17:24.4, R.S. 17:11, 34 CFR 300.650-652, and R.S. 17:1954.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010).

Jeanette B. Vosburg
Executive Director

1012#050

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

GO Grant Program Changes
(LAC 28:IV.Chapter 12)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6). (SG10122R)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education**

Scholarship and Grant Programs

Chapter 12. Louisiana GO Grant

§1203. Definitions

A. The following definitions shall be applicable to the Louisiana GO Grant Program. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Education Allowance—repealed.

Education Cost Gap (ECG)—repealed.

Education Cost Gap (ECG) Threshold—repealed.

* * *

Financial Need—the student's costs of attendance minus the expected family contribution (EFC) and minus the student's federal Pell grant.

* * *

Louisiana Basic College Costs (LBCC)—repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2615 (December 2007), amended LR 34:236 (February 2008), LR 35:647 (April 2009), LR 35:2349 (November 2009), LR 36:2853 (December 2010).

§1205. Application and Initial Eligibility

A. - B.2. ...

3. have financial need; and

B.4.a. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December 2010).

§1207. Continuing Eligibility

A. - B.1. ...

2. The student must still have financial need.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December 2010).

**§1211. Responsibilities of Eligible Louisiana
Institutions**

A. - C.2.d. ...

3. the payment request shall include the social security number, college code, term, date, hours attempted, award amount, and amount requested for each student.

C.4. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December 2010).

§1213. Responsibilities of LOSFA

A. - B. ...

C. LOSFA shall maintain a database of all students who have received the GO Grant, included social security number, college code, term, date, hours attempted, award amount, annual amount received, and aggregate amount received. In the event LOSFA receives a payment request in an amount that would exceed the student's eligibility, LOSFA will pay only that amount that will not exceed the student's eligibility.

D. Adequacy of Funding

1. After the receipt of fall semester or term payment requests, but no later than October 15 of each year, LOSFA shall determine whether sufficient funds are available to pay all anticipated awards for subsequent semesters, terms and sessions of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the Board of Regents.

3. LOSFA will provide to the Board of Regents information that is necessary to determine appropriate funding amounts upon the request of the Board of Regents.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:2350 (November 2009), LR 36:2853 (December 2010).

§1217. Responsibilities of the Board of Regents

A. At least on an annual basis, the Board of Regents shall review the amount appropriated for this program, and based on that figure, determine the maximum amount to be received by students attending school on a full-time, half-time, and less than half-time basis, and it shall provide notice to LOSFA of that amount.

B. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:2350 (November 2009), LR 36:2853 (December 2010).

George Badge Eldredge
General Counsel

1012#039

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—2010 Legislation
(LAC 28:IV.301, 701, 703, 705, 801, 803, 1901, and 1903)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6). (SG10120R)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior program year (non-academic program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards. To ensure that the average award amount (TOPS Tech) is not reduced for students during program year (non-academic program) 2006-2007 because of the adverse affects of Hurricanes Katrina and Rita on student enrollment, the average award amount (TOPS Tech) for program year (non-academic program) 2006-2007 shall be the same as calculated for program year (non-academic program) 2005-2006.

Award Amount—an amount equal to tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "cost of attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows.

d. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech).

Eligible Colleges or Universities—Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities; for recipients of the TOPS Tech Award only, beginning with the 2009-2010 Academic Year (college), and for recipients of the TOPS Tech, Opportunity, Performance and Honors Award, beginning with the 2010-2011 academic year (college), any school that has a valid and current certificate of registration issued by the State Board of Cosmetology in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education and any proprietary school that has a valid and current license issued by the Board of Regents in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010). LR 36:2854 (December 2010).

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§701. General Provisions

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

4.a. Through the 2009-2010 Academic Year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus any applicable TOPS stipend and a sum of not more than \$150 per semester or \$300 annually for the actual cost of books and other instructional materials.

b. Beginning with the 2010-2011 academic year (College), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS Opportunity, Performance and Honors Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of \$300 per semester or \$600 per academic year to be applied toward the cost of books and other instructional materials. In addition,

those students with the Performance Award shall receive \$400 per semester or \$800 per academic year for other educational expenses and those students with the Honors Award shall receive \$800 per semester or \$1,600 per academic year for other educational expenses.

E.5 - 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 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR 35:228 (February 2009), LR 36: 2854 (December 2010).

§703. Establishing Eligibility

A. - A.5.a.i(d) ...

* * *

(e). beginning with the graduates of academic year (high school) 2007-2008 through 2012-13, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

| Units | Course |
|-------|--|
| 1 | English I |
| 1 | English II |
| 1 | English III |
| 1 | English IV |
| 1 | Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units) |
| 1 | Algebra II |
| 1 | Geometry, Calculus or comparable Advanced Mathematics |
| 1 | Biology |
| 1 | Chemistry |
| 1 | Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit; provided however, that such Agriscience unit shall not be considered a science elective for the purpose of the math or science elective requirement below) |
| 1 | An elective from among the following math subjects: Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Integrated Mathematics III or the following science subjects: Biology II, Chemistry II, Physics or Physics II |
| 1 | American History |
| 1 | World History, Western Civilization or World Geography |
| 1 | Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic) |
| 1 | Fine Arts Survey; (or substitute 2 units performance courses in music, dance, or theater; or 2 units of studio art or visual art; or 1 elective from among the other subjects listed in this core curriculum) |
| 2 | Foreign Language, both units in the same language |

| Units | Course |
|-------|---|
| 1/2 | Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE) or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum). BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Advanced Technical Drafting (1/2 or 1 credit) Business Computer Applications (1/2 or 1 credit) Computer Applications or Computer/Technology Applications (1/2 or 1 credit) Computer Architecture (1/2 or 1 credit) Computer Electronics I (1/2 or 1 credit) Computer Electronics II (1/2 or 1 credit) Computer/Technology Literacy (1/2 or 1 credit) Computer Science I (1/2 or 1 credit) Computer Science II (1/2 or 1 credit) Computer Systems and Networking I (1/2 or 1 credit) Computer Systems and Networking II (1/2 or 1 credit) Database Design and Programming (1/2 or 1 credit) Database Programming with PL/SQL (1/2 credit) Desktop Publishing (1/2 or 1 credit) Digital Graphics & Animation (1/2 credit) Digital Media I (1/2 or 1 credit) Digital Media II (1/2 or 1 credit) Introduction to Business Computer Applications (1/2 or 1 credit) Java Programming (1/2 or 1 credit) Multimedia Productions or Multimedia Presentations (1/2 or 1 credit) Technology Education Computer Applications (1/2 or 1 credit) Telecommunications (1/2 credit) Web Mastering or Web Design (1/2 credit) Word Processing (1/2 or 1 credit) Independent Study in Technology Applications (1/2 or 1 credit) |

(f). beginning with the graduates of academic year (high school) 2013-14, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

| Units | Course |
|-------|--|
| 1 | English I |
| 1 | English II |
| 1 | English III |
| 1 | English IV |
| 1 | Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units) |
| 1 | Algebra II |
| 2 | Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Math – Pre-Calculus, Advanced Math – Functions and Statistics, Integrated Mathematics III |
| 1 | Biology |
| 1 | Chemistry |
| 2 | Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit) |
| 1 | American History |
| 2 | World History, Western Civilization or World Geography |
| 1 | Civics and Free Enterprise (1 unit combined) or Civics (1 unit) |

| Units | Course |
|-------|---|
| 1 | Fine Arts Survey; (or substitute 2 units performance courses in music, dance, or theater; or 2 units of studio art or visual art; or 1 elective from among the other subjects listed in this core curriculum) |
| 2 | Foreign Language, both units in the same language |

A.5.a.ii.(a). - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (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 (August 2000), LR 26:1996, 1999, 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), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2855 (December 2010).

§705. Maintaining Eligibility

A. - A.6.b. ...

c. in an academic graduate or professional program at an eligible college or university, by the end of each academic year (college), earn at least the total college credit hours required by the college or university for full time enrollment for each semester or quarter as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year (college). These hours shall not include hours earned during qualified summer sessions, summer sessions nor intersessions nor by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

d. in an eligible cosmetology or proprietary school, meet the federal grant aid steady academic progress requirement at that school; and

7. - 8.c. ...

d. the minimum grade necessary to maintain good standing, if enrolled in a graduate or professional program; or

e. meet the federal grant aid steady academic progress requirement at that school, if enrolled in an eligible cosmetology or proprietary school; and

A.9 - E.3. ...

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 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September

2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:1390 (July 2008), LR 36:491 (March 2010), LR 36:2856 (December 2010).

Chapter 8. TOPS-Tech Award

§801. General Provisions

A. - D.2. ...

3. Beginning with the 2010-2011 academic year (College), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS-Tech Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of \$300 per semester or \$600 per program year (nonacademic program) to be applied toward the cost of books and other instructional materials.

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 24:1904 (October 1998), amended LR 26:1997 (September 2000), repromulgated LR 27:1854 (November 2001), LR 36:2856 (December 2010).

§803. Establishing Eligibility

A. - A.5.d.iii. ...

6. if qualifying under the terms of §803.A.5.a, at the time of high school graduation:

a. have successfully completed one of the following core curriculums:

i. high school course work constituting the TOPS core curriculum for the Opportunity, Performance and Honors Awards as defined in §703.A.5. and documented on the student's official transcript as approved by the Louisiana Department of Education; or

a.ii. - c. ...

7. have achieved an *ACT score*, as defined in §301, of at least:

a. if qualifying under §803.A.5.a, an ACT composite score of at least 17 or beginning with the 2010-2011 program year (non academic program) in the alternative, have attained a silver level score on the assessments of the ACT WorkKeys system; or

A.7.b.i. - B.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010).

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1901. Eligibility of Post-Secondary Institutions to Participate

A. - E. ...

F. Eligible cosmetology and proprietary schools may participate in TOPS for all awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 30:784 (April 2004), LR 31:3111 and 3114 (December 2005), LR 35:235 (February 2009), LR 35:1490 (August 2009), LR 36:2857 (December 2010).

§1903. Responsibilities of Post-Secondary Institutions

A. - B.5. ...

6. upon the school's certification that a recipient of a TOPS Opportunity, Performance or Honors Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. - h. ...

i. for students enrolled in eligible cosmetology and proprietary schools, institutions may bill for an amount of up to one quarter of the annual *average award amount (TOPS-Tech)*, as defined in §301;

B.7. - D.5.b. ...

6. for TOPS Awards at cosmetology or proprietary schools:

a. verify the student has continued to make steady academic progress; and

b. verify the student is enrolled full time on the billing date.

E. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26 and R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010).

George Badge Eldredge
General Counsel

1012#038

RULE

**Office of the Governor
Board of Home Inspectors**

Training, Testing, and Licensure
(LAC 46:XL.103, 105, 109, 115, 117, 119, 120, 121, 125, 303, 309, 313, 315, 319, 321, 501, 707, and 709)

The Board of Home Inspectors has amended LAC 46:XL.103, 105, 109, 115, 117, 119, 120, 121, 125, 303, 309, 313, 315, 319, 321, 501, 707, and 709 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Home Inspector Licensing Law, R.S. 37:1471 et seq. The text has been amended and adopted to correct typographical errors, to relocate definitions, to remove superfluous language, to reinstate prior fees, revise infield training requirements and to revise qualifications for trainers and education providers.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XL. Home Inspectors

Chapter 1. General Rules

§103. Domicile; Meetings; Quorum; Service of Process; Publication

A. The board shall be domiciled in Baton Rouge, but may meet in other locations as determined by the board. A majority of the board members shall constitute a quorum of the board for all purposes, including the issuance of licenses and the rulemaking and adjudicative functions of the board.

B. The chief operating officer of the board shall be the agent for service of process. The board shall register the name and address of its agent for service of process as required by law.

C. The board shall publish quarterly a bulletin, which shall be the official journal of the board. This bulletin shall contain notice of all applications filed, board agendas, minutes of open meetings, request for declaratory relief, and generally serve as the board's form notice to licensees and the public. All licensees shall receive the bulletin free of charge. Others may subscribe to the bulleting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1474-1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2738 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2857 (December 2010).

§105. Officers; Election; Secretary-Treasurer; Chief Operating Officer; Board Staff; Duties

A. - B.4. ...

C. The chairman shall preside at all meetings, approve the agenda and shall be the official custodian of all records.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2738 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1686 (August 2004), LR 36:2857 (December 2010).

§109. Definitions

* * *

Component—repealed.

* * *

Home Inspection—repealed.

Home Inspection Report—repealed.

1. - 10. Repealed.

Home Inspector—repealed.

Inspection—repealed.

* * *

System—repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1473 and R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2739 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1686 (August 2004), LR 36:2858 (December 2010).

§115. Licensing Applications; Forms; Terms; Renewals; Inactive Status

A. ...

B. Upon renewal of a license, the licensee shall submit a copy of a completed inspection report form from the previous licensing period. All client information, including name and address, shall be deleted from the form. Reports must comply with §123.

C. Licenses shall be renewed on an annual basis. Licenses shall expire one year after the last day of the month of issuance of the preceding year. Renewal requests shall be made on approved renewal application forms supplied by the board and must be received at least two weeks prior to the expiration date of the current license. Each applicant shall complete all Chapters of the renewal application.

D. Any licensee who fails to timely renew his license may thereafter obtain renewal upon filing a renewal application and upon paying the appropriate renewal and delinquent fees. The period for delinquent renewal of an expired license shall be limited to the 12 month period immediately following the expiration date of the active license. Failure to renew an expired license during such 12 month period shall require the former licensee to pass the board approved licensing examination, pay the appropriate renewal and delinquent fees, file a renewal application, and complete all continuing education requirements accruing during the period of delinquency. Failure to renew an expired license within the 36 month period immediately following the expiration date of the active license shall, in addition to the above requirements, require the licensee to retake and pass 90 hours of classroom education as set forth in the Board Rules and take the Standards of Practice and Code of Ethics report writing seminar offered by the board or other board approved education provider. Any home inspection performed during an expiration period is considered a violation and subject to disciplinary action by the board.

E. A licensee may hold inactive status by maintaining license renewals and continuing education requirements, but all insurance requirements are waived provided no home inspections are performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), LR 36:2858 (December 2010).

§117. Fees; Submission of Report Fees; Timeliness of Filings

A. Fees charged by LSBHI are as follows:

1. application for license—\$200;
2. license renewal—\$100;
3. delinquent renewal (for home inspectors only)—\$100;
4. initial qualifying/continuing education provider—\$200;
5. annual renewal for education provider—\$200;
6. filing for additional course offerings—\$50;
7. inspection report—\$5.

B. Each home inspection performed by an inspector under this law shall be subject to a \$5 state inspection fee per home inspection. This fee is to be made payable to the LSBHI and is to be remitted monthly in the following manner.

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 34:1926 (September 2008), LR 36:2858 (December 2010).

§119. Education/Training and Testing; Initial Licensure

A. Initial applicants for licensure must pass a LSBHI approved licensing examination, regarding home inspection information, techniques, standards of practice, and code of ethics.

B. Any person filing an initial application for licensure shall present evidence to the board that he has satisfactorily completed at least 130 hours of required home inspection instruction and training by training providers and instructors approved by the board.

C. Education and training shall be performed as follows.

1. 90 hours of the required instruction and training shall consist of classroom hours of home inspection course work approved by the board with an certified education provider as set forth in §120.
2. 30 hours of the required instruction and training shall consist of in-field platform training from a certified infield trainer approved by the board.
3. 10 hours of the required instruction and training shall consist of attending 10 live home inspections from a certified infield trainer at a residential structure where a fee is paid and a report is provided to a client.
4. In addition to completion of the 130 hours of home inspection instruction and in-field training, the applicant

shall also attend the report writing seminar conducted on behalf of the board or its approved representative and pass the board approved examination of the Standards of Practice and Code of Ethics.

D.1. The 90 hours of classroom instruction as set forth in §119.C.1 above, may only include a combination of any of the following methods of instruction:

- a. live lectures by a certified home inspector instructor;
- b. DVD, CD ROM, videotape, or other electronic means of video lecture, with a certified home inspector available during classroom hours for questioning and discussion;
- c. in-classroom or remote demonstration of techniques; or
- d. periodic, in-classroom testing.

2. No credit towards the 90 classroom hours shall be given for:

- a. in-classroom study;
- b. instruction received from an education provider not duly qualified by the board;
- c. time spent listening to audiotapes; or
- d. classroom time devoted to non-approved course materials.

3. Before the trainee can be certified as having completed the required 90 hours of classroom instruction, the trainee must have:

- a. attended and completed the 90 hours of classroom instruction within 180 days of commencement;
- b. passed the final examination and all periodic examinations given by the educational provider; and
- c. mailed a completed LHI Application Form and Education Provider Application Form to the board.

E. Before registering for the 90 hour classroom instruction with a certified educational provider, the trainee must first apply with the board. After enrolling with a certified educational provider, the trainee must provide the board with the name of the provider and the commencement date of instruction.

F. Prior to admission to an infield training program, the trainee shall complete the required 90 hours of classroom training and pass the licensing exam described in §119.A.

G. Infield training shall consist of platform training and live training.

1. Platform training shall consist of attending 30 hours of hands-on training performed at a residential structure or using residential components or equipment with a certified infield trainer. All systems of a residential structure shall be examined and inspected during platform training. The applicant shall be given one credit hour for each hour of platform training attended. No more than four applicants may be trained at one time during platform training. Platform training shall not be conducted during a live home inspection where an inspection fee is paid and an inspection report is provided to a client.

2. Live training shall consist of attending 10 live home inspections with a certified infield trainer at a resale residential structure where a fee is paid and a report is provided to the client. The applicant shall be given one credit hour for each live inspection attended. No more than two applicants may be trained at a time during a live home inspection. During each inspection, the trainee shall prepare

a mock home inspection report in a format approved by the board that conforms to the requirements of the Standards of Practice for each home inspected during live training. The applicant shall retain these reports for three years from the date of completion of training.

H. Upon registering trainees for a 90 hour course, all certified education providers shall:

1. notify the board of the date of the commencement of each 90 hour course of instruction of each trainee;
2. provide the names, addresses, and telephone numbers of all trainees enrolled for that course;
3. keep records of attendance of each trainee enrolled in the 90 hour course to confirm satisfactory completion of the 90 required classroom hours of instruction;
4. provide the trainee with an education provider evaluation form approved by the board prior to final testing and completion of the 90 required classroom hours of instruction;
5. provide a final examination and multiple periodic examinations to the trainee covering course contents; and
6. provide a copy of certificates of completion to the board of only those trainees who have successfully completed the full 90 hours of classroom instruction.

I. Certified in-field trainers shall:

1. instruct the trainee on how to complete and file the monthly state reporting form;
2. provide the trainee with a copy of the Standards of Practice and Code of Ethics;
3. issue to trainee a certificate showing completion of platform training and/or live training; and
4. maintain for three years a list of all trainees and the dates of training.

J. The board shall adopt and approve a licensing examination, which may be administered by a nationally accepted testing service as determined by the board.

K. The board shall review examination material relative to the adoption and approval of licensing examinations. The board shall have complete authority to enter into confidentiality agreements, which prohibit the public dissemination of information pertaining to review of questions or materials, including any questions or materials certified as proprietary by the person or facility submitting them for evaluation. Any person or testing facility submitting evaluation materials for review, certification, or otherwise, conveys and assigns to the board a right of limited use and license solely for use in the certification process and any related inquiry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2741 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), LR 35:1519 (August 2009), LR 36:2858 (December 2010).

§120. Education Providers; Instructors

A.1. In order to qualify as a certified 90 hour education provider, an applicant shall:

- a. pay the initial education provider fee;
- b. provide a syllabus and a course list to the board;
- c. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise;

- d. remain current on all renewal and other fees;
 - e. employ only certified home inspector instructors;
- and
- f. be approved by the board.
2. In order to qualify as a certified home inspector instructor of a 90 hour education provider, a person must:
- a. have been actively engaged in the performance of home inspections for the three years prior to certification;
 - b. have been an actively engaged, Louisiana licensed home inspector for the three years prior to certification;
 - c. have performed at least 500 home inspections; or
 - d. be licensed in the field of the subject matter of the particular course instructed.

3. In order to qualify as an infield trainer, an applicant shall:
- a. be a LSBHI licensed home inspector for at least three years;
 - b. pay the required infield trainer fee(s);
 - c. be current on all other fees;
 - d. be current on all continuing education hours; and
 - e. be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 30:1687 (August 2004), amended by the Office of the Governor, Board of Home Inspectors, LR 31:2011 (August 2005), LR 35:1520 (August 2009), LR 36:2859 (December 2010).

§121. Continuing Education; Instructors

A. As a condition of license renewal, an inspector must certify completion of at least 20 hours of continuing education during the previous licensing period, in courses approved by the board. Board-approved training providers may be given credit for course preparation and other activities as sanctioned by the board in lieu of the continuing education requirements. The board shall fix the amount of course credit to be received upon application by an instructor. No more than 10 hours of continuing education credit may be carried over into the following year.

B. Repetition of Courses

1. The same continuing education course may be taken only once for continuing education credit during any two year period, unless otherwise approved by the board.

2. For each license period the board may specify mandatory subject matter for one course, such course to be not less than two nor more than four credit hours. The remaining courses shall be elective courses covering subject matter to be chosen by the licensee and meeting all other criteria specified in this Chapter.

3. Each course shall comprise of at least one credit hour.

4. The board may approve only up to two hours of credit per licensing period for courses dealing with construction, but outside the scope of the Standards of Practice.

5. Up to four hours of credit may be given per licensing period for attending a quarterly or special board meeting or for serving on a committee appointed by the board.

6. The board may approve only up to four hours of continuing education course per licensing period from non-approved instructors.

C. In order to receive credit for completing a continuing education course, a licensee must attend at least 90 percent of the scheduled classroom hours for the course, regardless of the length of the course.

D.1. The board shall deny continuing education credit claimed by a licensee, and shall withdraw continuing education credit previously awarded by the Board to a licensee if:

- a. the licensee provided incorrect or incomplete information to the board concerning continuing education or compliance with this Section;

- b. the licensee was mistakenly awarded continuing education credit because of an administrative error; or

- c. the licensee failed to comply with the attendance requirement established by Paragraph C of this Section.

2. When continuing education credit is denied or withdrawn by the board under Subsection D of this Section, the licensee remains responsible for satisfying the continuing education requirement. Any license may be suspended until proof of compliance is submitted.

E. It is the duty of every licensee to provide proof of compliance with continuing education requirements on a timely basis. In order to receive credit from the Board for completion of continuing education courses under this Section, proof of compliance must be submitted on forms approved by the board and prepared by board approved training providers.

F.1. In order to qualify as a continuing education instructor, an applicant shall pay the required continuing education provider fee(s) and be approved by the board.

2. A licensee who is also a board approved continuing education instructor may satisfy all or part of the continuing education requirements provided for in Subsection A of this Section by presenting satisfactory evidence to the board of participation, other than as a student, in educational processes and programs in home inspection practices or techniques, including but not limited to teaching, program development, and preparation of textbooks, monographs, articles, or other instructional material subject to approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1477, and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010).

§125. Home Inspectors Record Keeping; Inspection; Production Retention

A. - C. ...

D. To facilitate compliance with record keeping requirements of this Section, copies of all home inspection reports performed by a licensee shall be provided to the licensee upon any separation from employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742

(December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010).

Chapter 3. Standards of Practice

§303. Definitions

A. The definitions in §109 of this Part are incorporated into this Chapter by reference. The following definitions apply to this Chapter.

Alarm System—warning devices, whether installed or free standing, including but not limited to, carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.

Automatic Safety Control—devices designed and installed to protect systems and components from unsafe conditions.

Cooling System—a central system that uses ducts to distribute cooled air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.

Client—the person with whom a licensed home inspector contracts to perform a home inspection, whether individually or through that person's agent.

Component—a readily accessible and observable aspect of a system, such as a floor or wall, but not individual pieces such as Boards or nails or where many similar pieces make up a component.

Cross Connection—any physical connection or arrangement between potable water and any source of contamination.

Dangerous or Adverse Situations—situations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment.

Deficient—a condition of a system or component that adversely and materially affects its performance.

Describe—to report, in writing, a system or component by its type, or other observed characteristics, to distinguish it from other systems or components.

Dismantle—to take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means, that would not be taken apart by a homeowner in the course of normal household maintenance.

Enter—to go into an area to observe all visible components.

Functional Drainage—a drain is functional when it empties in a reasonable amount of time and does not overflow when another fixture is drained simultaneously.

Functional Flow—a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.

Functioning—performing as expected and in accordance with its intended design and purpose.

Further Evaluation—examination and analysis by a qualified professional or service technician whose services and qualifications exceed those provided by a home inspector.

Heating System—a central system that uses ducts to distribute heated air to more than one room which is not plugged into an electrical convenience outlet.

Home Inspection—the process by which a Home Inspector visually examines the readily accessible systems

and components of a home and describes those systems and components in accordance with the Standards of Practice.

Home Inspection Report—a written evaluation of two or more of the following systems of a resale residential building:

- a. electrical system;
- b. exterior system;
- c. interior system;
- d. heating and cooling systems;
- e. plumbing system;
- f. roofing system;
- g. structural system;
- h. insulation and ventilation system;
- i. appliance system; or
- j. any other related residential housing system as defined in the standards of practice prescribed by the board.

Home Inspector—any person who, in accordance with the provisions of these rules, holds himself out to the general public and engages in the business of performing home inspections on resale residential buildings for compensation and who examines any component of a building, through visual means and through normal user controls, without the use of mathematical sciences.

Inaccessible—unable to open with the use of Standard Inspection Tools or hidden from visual inspection by furniture, stored items, wall or floor coverings or other obstructions.

Inspect—to examine readily accessible systems and components of a building in accordance with the Standards of Practice, using normal operating controls and opening readily openable access panels.

Installed—attached such that removal requires tools.

LHI—an acronym for Licensed Home Inspector.

Method of Access—a means by which the inspector gains entry, ingress and/or a visual advantage.

Normal Operating Controls—devices such as thermostats, switches, or valves intended to be operated by the homeowner.

Normal Operating Cycle—the standard period during which a system or component operates by the use of Normal Operating Controls

Observe—the act of making a visual examination.

On-Site Water Supply Quality—water quality based on the bacterial, chemical, mineral and solids contents of the water.

On-Site Water Supply Quantity—water quantity based on the rate of flow of water.

Operate—to cause systems or equipment to function.

Recreational Facilities—spas, saunas steam baths, swimming pools, tennis courts, and exercise, entertainment, athletic, playground or other equipment and associated accessories.

Readily Accessible—available for visual inspection without requiring the moving of personal property, the dismantling, disconnecting, unplugging or destroying of equipment, or any action which may involve a risk to persons or property.

Readily Openable Access Panel—a panel provided for homeowner inspection and maintenance that is within normal reach, can be removed by one person, is not sealed in

place and is not blocked by stored items, furniture, or building components.

Representative Number—for multiple identical interior components such as windows and electrical outlets - one such component per room.

Roof Drainage Components—gutters, downspouts, leaders, splash blocks, scuppers, and similar components used to carry water off a roof and away from a building.

Shut Down—a state in which a system or component cannot be operated by normal user controls.

Solid Fuel Heating Device—any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves central furnaces, and combinations of these devices.

Specialized Tools—diagnostic devices and other equipment, including but not limited to, thermal imaging devices, gas leak detection equipment, environmental testing equipment, elevation determination devices and ladders capable of reaching surfaces over one story above the ground.

Standard Inspection Tools—a flashlight, outlet tester, ladder and appropriate screwdriver.

Structural Component—a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

System—a combination of interactive or interdependent components assembled to carry out one or more functions.

Technically Exhaustive—an inspection involving the extensive use of measurements, instruments, testing, calculations, or other means used to develop scientific or engineering findings, conclusions, and recommendations.

Under Floor Crawl Space—the area within the confines of the foundation between the ground and the underside of the lowest floor structural component.

Unsafe—a condition of a readily accessible, installed system or component which, in the opinion of the inspector, is judged to be a significant risk of personal injury or property damage during normal use or under the circumstances.

Wiring Methods—manner or general type of electrical conductors or wires installed in the structure such as non-metallic sheath cable, armored cable, knob and tube, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1689 (August 2004), LR 36:2861 (December 2010).

§309. General Exclusions

A. Home inspectors are not required to inspect or report on:

1. - 6. ...
7. the presence or absence of any suspected or actual adverse environmental condition or hazardous substance, including but not limited to asbestos, radon lead, mold, contaminated drywall, carcinogens, noise, or contaminants, whether in the building or in soil, water, or air;

A.8. - B.14. ...

C. Home inspectors shall not:

1. - 5. ...

6. solicit to perform repair services on any system or component of the home which the inspector noted as deficient, deficient or unsafe in his home inspection report for a period of one year from the date of the inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1478.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1690 (August 2004), LR 36:2862 (December 2010).

§313. Exterior System

A. The home inspector shall inspect:

1. wall cladding, flashings and trim;
2. all doors, garage doors and windows;
3. storm doors and windows;
4. decks, balconies, stoops, steps, porches, and applicable railings;
5. eaves, soffits, and fascias where visible from the ground level; and
6. vegetation, grading, drainage, driveways, patios, walkways, and retaining walls with respect to their effect on the condition of the building.

B. The home inspector shall:

1. describe wall cladding materials;
2. operate all entryway doors;
3. operate garage doors and test the electronic safety beam reverse feature by interrupting the electronic beam (if present); and
4. report whether or not the garage door operator is equipped with a pressure sensitive safety reverse feature and whether that feature was tested.

C. The home inspector is not required to inspect:

1. shutters, awnings, and similar seasonal accessories;
2. fences;
3. presence of safety glazing in doors and windows;
4. garage door operator remote control transmitters;
5. geological conditions;
6. soil conditions;
7. recreational facilities;
8. detached buildings or structures other than garages and carports;
9. presence or condition of buried fuel storage tanks;
10. sea walls, break walls or docks;
11. erosion control and earth stabilization measures; or
12. garage door operator pressure sensitive reverse failure devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2862 (December 2010).

§315. Roofing System

A. - A.5.

B. The home inspector shall:

1. describe the type of roof covering materials; and
2. report the methods used to inspect the roofing system and any limitations.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2862 (December 2010).

§319. Electrical System

A. The home inspector shall inspect:

1. - 5. ...

6. and test ground fault circuit interrupters and arc fault circuit interrupters, unless, in the opinion of the inspector, such testing is likely to cause damage to any installed items or components of the home or interrupt service to an electrical device or equipment located in or around the home.

B. - D. ...

E. The home inspector is not required to:

1. insert any tool, probe, or testing device inside the panels;

2. test or operate any overcurrent device except ground fault circuit interrupters and arc fault circuit interrupters in accordance with §319.A.6;

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2863 (December 2010).

§321. Heating and Cooling System

A. The home inspector shall inspect permanently installed heating and cooling systems including:

A.1. - E.4.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1692 (August 2004), LR 36:2863 (December 2010).

Chapter 5. Code of Ethics

§501. Code of Ethics

A. ...

B. Ethical Obligations

1. - 6. ...

7. The LHI shall not solicit to repair, replace or upgrade for compensation, any system or component of the home which the inspector noted as deficient or unsafe in his home inspection report, for a period of one year from the date of the inspection.

8. - 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1693 (August 2004), LR 36:2863 (December 2010).

Chapter 7. Disciplinary Actions

§707. Investigations; Special Investigating Entity; Board Review

A. Upon receipt of a complaint filed pursuant to §703.A and conforming to this Chapter, the board shall assign a docket number to the complaint and refer it to a special investigating entity.

B. - E. ...

F. If the report states that the allegations lack sufficient evidence to support the allegations, the chief operating officer shall:

1. - 3. ...

G. If the complainant makes a written request for review by the board, the board shall review the report and the complainant's documentation. If the board finds that the allegations are unsupported by the evidence, the chief operating officer shall advise the complainant in writing that the board has concurred with the special investigating entity's conclusion that the complaint lacks sufficient evidence to support the allegations in the complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1694 (August 2004), LR 36:2863 (December 2010).

§709. Disciplinary Hearing; Procedure

A. - C. ...

D. No board member, committee member or employee serving as part of the special investigating entity shall participate in the consideration or decision of the matter or confection of the board's decision, order or opinion. However, any member of the special investigating entity may prosecute the case against the licensee or respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1695 (August 2004), LR 36:2863 (December 2010).

Albert J. Nicaud
Board Attorney

1012#033

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Owners—Partnership, Limited Liability Company
(LAC 46:XLI.1107, 1109, 1115, and 1119)

The Louisiana State Racing Commission has amended the following Sections to clarify an existing Rule(s) which currently address corporations and partnerships. This Rule will permit the licensing of limited liability companies as owners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

Chapter 11. Owners

**§1107. Registration of Partnership and Limited
Liability Company**

A. ...

B. Each limited liability company must be registered with the commission, and its application must be signed by

the member(s) or managing member(s) where designated. Every member having an interest of 5 percent or greater in the limited liability company shall be required to obtain an owner's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), amended LR 3:25 (January 1977), LR 4:274 (August 1978), LR 36:2863 (December 2010).

§1109. Partnership and Limited Liability Company Papers

A. - A.6. ...

B. Limited Liability Company shall, among other things, provide for the following:

1. the name and address of each and every member of the limited liability company;
2. the relative proportions of such interests;
3. whether management is reserved to the members or a manager;
4. with whom the power of entry and declaration rests;
5. the terms of any contingency, lease or any other arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), amended LR 3:25 (January 1977), LR 4:275 (August 1978), LR 36:2864 (December 2010).

§1115. Alteration of Partnership or Limited Liability Company Registration

A. ...

B. Any alteration in a limited liability registration, to be effective, must be reported in writing to the racing secretary, signed by member(s) and/or managing member(s) possessing authority to bind the limited liability company, and approved by the stewards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), amended LR 3:25 (January 1977), LR 4:275 (August 1978), LR 36:2864 (December 2010).

§1119. Percentage Interest

A. ...

B. Each member's percentage of interest in a limited liability company shall be declared in the application for license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), amended LR 3:25 (January 1977), LR 4:275 (August 1978), LR 9:546 (August 1983), LR 36:2864 (December 2010).

Charles A. Gardiner, III
Executive Director

1012#003

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Stables—Registration, Corporations, Reports
(LAC 46:XLI.2103-2109)

The Louisiana State Racing Commission has amended the following Rule to clarify an existing Rule(s) which currently address corporations and partnerships. This Rule will permit the licensing of limited liability companies as owners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

Chapter 21. Stables

§2103. Stable Registration

A. Each stable name must be duly registered with the commission. In applying to race under a stable name, the applicant must disclose the identity or identities behind the stable names. If a partnership, limited liability company, or corporation is involved the rules covering such must be complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:429 (December 1976), amended LR 3:26 (January 1977), LR 4:275 (August 1978), LR 36:2864 (December 2010).

§2105. Corporation

A. Any corporation or a lessee or lessees of a corporation shall be considered qualified to obtain a license as an owner or to obtain the right to race under a stable name if each member of the board of directors of the corporation owns at least five percent of the outstanding voting stock of the corporation and if each of the members of the board is also licensed as an owner and providing that the corporation and the lessee or lessees of the corporation are otherwise qualified for license. No other owner or officer of, or other person with an interest in such corporation shall be required to be licensed as an owner in order to race under a stable name. However, the name of such owner or other person with an interest in the corporation, together with his percentage ownership in such corporation or as an owner, shall be submitted to the commission before issuance of a license or right to race is granted by the commission to the corporation or its lessee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), amended LR 3:26 (January 1977), LR 4:275 (August 1978), LR 9:546 (August 1983), LR 36:2864 (December 2010).

§2107. Reports

A. The stockholders or members of any corporation, limited liability company, or partnership, which owns or leases horses for racing purposes in the state of Louisiana

and also any such corporation, limited liability company, or partnership, shall make and file with the commission as and when requested by it, a report or reports under oath containing such information as the commission may specify. Upon refusal or failure to file any such report or reports, the commission may refuse a license or may revoke any such license which it may have granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), amended LR 3:26 (January 1977), LR 4:275 (August 1978), LR 9:546 (August 1983), LR 36:2864 (December 2010).

§2109. Licensed Trainer Registering Stable

A. No licensed trainer of race horses shall register a stable name, except that a trainer may register the stable name of a limited liability company or partnership of which a trainer is a member or partner, provided that the use of such stable name has been authorized by the stewards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), amended LR 3:26 (January 1977), LR 4:275 (August 1978), LR 36:2865 (December 2010).

Charles A. Gardiner, III
Executive Director

1012#004

RULE

Office of the Governor Sheriffs' Pension and Relief Fund

Eligible Rollover Distribution (LAC 58:XV.103)

The Louisiana Sheriffs' Pension and Relief Fund (the "fund"), in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, has adopted a Rule requiring the fund to provide the recipient of an eligible rollover distribution from the fund with notice of that distribution within a reasonable period of time before the distribution is made. The Rule details specific information which must be contained in the notice, and references the appropriate sections of the Internal Revenue Code.

Title 58

RETIREMENT

Part XV. Sheriffs' Pension and Relief Fund

Chapter 1. General Provisions

§103. Eligible Rollover Distribution

A. Within a reasonable period of time before making an eligible rollover distribution, the executive director or the assistant executive director of the fund shall provide a written explanation to the recipient of such a distribution explaining the following:

1. the provisions under which the recipient may have the distribution directly transferred to an eligible retirement plan and that the automatic distribution by direct transfer applies to certain distributions in accordance with §401(a)(31)(B) of the Internal Revenue Code;

2. the provision which requires the withholding of tax on the distribution if it is not directly transferred to an eligible retirement plan;

3. the provisions under which the distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient receives the distribution;

4. the provisions under which distributions from the eligible retirement plan receiving the distribution may be subject to restrictions and tax consequences which are different from those applicable to distributions from the plan making such distribution.

B. For the purposes of this rule, a "reasonable period of time" shall have the meaning assigned to it under §401(a)(31) of the Internal Revenue Code and the regulations thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2177.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Sheriffs' Pension and Relief Fund, LR 36:2865 (December 2010).

Osey McGee, Jr.
Executive Director

1012#001

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Electronic Health Records—Incentive Payments (LAC 50:I.Chapter 125)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:I.Chapter 125 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 13. Electronic Health Records

Chapter 125. Incentive Payments

§12501. General Provisions

A. In accordance with the provisions of the American Recovery and Reinvestment Act of 2009, the department establishes a Medicaid electronic health record (EHR) incentive payment program to provide payments to eligible professional practitioners and hospitals that adopt, implement or upgrade certified Electronic Health Record (EHR) technology.

B. The following providers may qualify to receive Medicaid incentive payments:

1. physicians;
2. nurse practitioners;
3. certified nurse-midwives;
4. dentists;
5. physician assistants who direct a federally qualified health center (FQHC) or rural health clinic (RHC);
6. acute care hospitals, including cancer and critical access hospitals; and

7. children's specialty hospitals.

C. Eligible providers shall meet the appropriate meaningful use requirements for certified EHR systems as established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS).

D. Payments shall be distributed through a web-based Medicaid EHR incentive payment system and at the frequency specified by the department.

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, Bureau of Health Services Financing, LR 36:2865 (December 2010).

§12503. Qualifying Criteria for Professional Practitioners

A. Professional practitioners shall qualify for Medicaid incentive payments when:

1. services are rendered to the required number of patients based on the Medicaid patient volume threshold; and

2. the meaningful use requirements are met for EHR systems, based on the participation year of the program.

B. Professional practitioners shall be required to meet the minimum Medicaid patient volume threshold of 30 percent. This threshold shall be calculated as a ratio where the numerator is the total number of Medicaid patient encounters with needy individuals treated in any 90-day period in the previous calendar year and the denominator is all patient encounters over the same period of time.

1. Needy individuals shall include:

a. Medicaid recipients;

b. Children's Health Insurance Program recipients;

c. patients furnished uncompensated care by the provider; and

d. patients furnished services at no cost or on a sliding scale.

C. During the first year of program participation, the meaningful use requirements for an eligible provider are to adopt, implement, and upgrade a certified EHR system. In subsequent years' participation, providers must meet the meaningful use requirements defined by CMS at the stage that is in place at that time.

D. Incentive payments to eligible practitioners shall begin in state fiscal year (SFY) 2011 and will end in SFY 2021. The latest state fiscal year a Medicaid provider can begin the program is SFY 2016.

E. Eligible practitioners may receive incentive payments from the Medicaid Program or from the Medicare Program. Payments cannot be received from both entities simultaneously. After the initial program selection, eligible practitioners shall be allowed to change their selection only once during SFY 2012 through SFY 2014.

F. Payments are based on calendar year and may total up to \$63,750 over six years of participation. To receive the maximum total payment amount, the provider would have to initiate the program by SFY 2016.

1. Pediatricians with more than 20 percent, but less than 30 percent Medicaid patient volume, will receive two-thirds of the maximum amount.

G. Medicaid EHR incentive payments shall not be available to a hospital-based provider who furnishes 90 percent or more of his/her services in a hospital setting. This

includes services furnished on an inpatient or outpatient basis and in an emergency room setting.

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, Bureau of Health Services Financing, LR 36:2866 (December 2010).

§12505. Qualifying Criteria for Hospitals

A. Hospitals shall qualify for Medicaid incentive payments when:

1. services are rendered to the required number of patients based on the Medicaid patient volume threshold; and

2. the meaningful use requirements are met for EHR systems, based on the participation year of the program.

B. Acute care hospitals shall be required to meet the minimum Medicaid patient volume threshold of 10 percent. There is no Medicaid patient volume threshold for children's hospitals.

C. Hospitals that meet Medicare's meaningful use requirements for certified EHR systems shall satisfy the meaningful use requirements for Medicaid incentive payments.

D. Incentive payments for eligible hospitals shall begin in SFY 2011. Hospitals participating in the Medicaid incentive program cannot initiate payments after SFY 2016 and payment years must be consecutive after SFY 2016.

E. Eligible hospitals may receive incentive payments from Medicare and Medicaid simultaneously.

F. Payments are based on Federal fiscal year and are calculated as follows.

1. The overall EHR amount is multiplied times the Medicaid share.

a. The overall EHR amount is the sum over four years of the base amount plus the discharge related amount applicable for each year multiplied times the transition factor applicable for each year.

b. The Medicaid share is the Medicaid inpatient bed days plus the Medicaid managed care inpatient bed days divided by the total inpatient bed days multiplied times the estimated total charges minus uncompensated (charity) care charges divided by the estimated total charges.

2. The resulting amount is the eligible hospital payment amount.

G. Payments to eligible hospitals are disbursed over a 3-6 year period. No annual payment may exceed 50 percent of the total calculation and no two-year payment may exceed 90 percent of the total calculation.

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, Bureau of Health Services Financing, LR 36:2866 (December 2010).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Bruce D. Greenstein
Secretary

1012#090

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Medicaid Eligibility—Medicare Savings Programs
(LAC 50:III.2325, 10703, and 10705)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:III.2325 and §10703 and to amend §10705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2325. Medicare Savings Programs

A. Medical assistance furnished to Qualified Medicare Beneficiaries (QMB), Specified Low Income Beneficiaries (SLMB) and Qualified Individuals (QI) is commonly referred to as the Medicare Savings Programs (MSP). Medicaid coverage under these programs is limited to payment of Medicare premiums, and may pay deductibles and co-insurance.

1. Effective January 1, 2010, with the consent of an individual completing an application for Low Income Subsidy (LIS) benefits, the Social Security Administration will transmit LIS data to Medicaid.

2. Medicaid shall use the data to initiate an application for the individual for benefits under the Medicare Savings Program.

3. The date that the LIS application is filed with the Social Security Administration will be used as the date of application for MSP and for determining the effective date of MSP eligibility.

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, Bureau of Health Services Financing, LR 36:2867 (December 2010).

Subpart 5. Financial Eligibility

Chapter 107. Resources

§10703. General Provisions

A. Medicaid utilizes the income and asset methodologies of the Supplemental Security Income (SSI) Program to determine Medicaid eligibility for aged, blind and disabled individuals.

B. Under section 1902(r)(2) of the Social Security Act, states are allowed to use less restrictive income and asset methodologies in determining eligibility for most Medicaid eligibility groups than are used by the cash assistance program.

C. Medicare Savings Programs

1. The following individual's resources shall be considered in determining eligibility for the Medicare Savings Programs:

- a. the applicant/recipient; and

b. the spouse living in the home with the applicant/recipient.

2. Resource Assessment. The assets test for full Low Income Subsidy (LIS) eligibility is set at three times the SSI asset standard, indexed annually by the increase in the consumer price index.

a. Effective January 1, 2010, the asset limit for all Medicare Savings Programs will be the same as the asset limit for Medicare's Part D full benefit LIS.

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, Bureau of Health Services Financing, LR 36:2867 (December 2010).

§10705. Resource Disregards

A. - B.1. ...

C. Effective January 1, 2010, the following assets shall be disregarded in eligibility determinations for all Medicare Savings Programs:

1. all life insurance, regardless of cash surrender value; and

2. all vehicles, regardless of value.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1899 (September 2009), amended LR:36:2867 (December 2010).

Bruce D. Greensten
Secretary

1012#091

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:V.5315, §5515, §5717, §5915 and §6117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5315. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in

this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. **Qualifying Criteria.** In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

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, Bureau of Health Services Financing, LR 36:2867 (December 2010).

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5515. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for clinic services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. **Qualifying Criteria.** In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

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, Bureau of Health Services Financing, LR 36:2868 (December 2010).

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5717. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. **Qualifying Criteria.** In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

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, Bureau of Health Services Financing, LR 36:2868 (December 2010).

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5915. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. **Qualifying Criteria.** In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

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, Bureau of Health Services Financing, LR 36:2868 (December 2010).

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6117. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state public hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

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, Bureau of Health Services Financing, LR 36:2868 (December 2010).

Bruce D. Greenstein
Secretary

1012#092

RULE

Department of Insurance Office of the Commissioner

Regulation 99—Certificates of Insurance (LAC 37:XIII.Chapter 139)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 22:11 and R.S. 22:881.1, the Louisiana Department of Insurance has promulgated Regulation 99. Adoption of the regulation is authorized by Acts 2010, No. 1017 of the Regular Session of the Louisiana Legislature. The purpose of Regulation 99 is to implement the provisions of Acts 2010, No. 1017, concerning the issuance, effect, and approval of certificates of insurance.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 139. Regulation 99—Certificates of Insurance

§13901. Authority

A. Regulation 99 is adopted in accordance with the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act and the authority vested in the commissioner granted under the Louisiana Insurance Code, Title 22, R.S. 22:11 and R.S. 22:881.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010)

§13903. Purpose

A. The purpose of Regulation 99 is to implement the provisions of Acts 2010, No. 1017 of the Regular Session of the Louisiana Legislature, concerning the issuance, effect, and approval of certificates of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010).

§13905. Scope and Applicability

A. Regulation 99 applies to certificates of insurance issued in reference to property, operations and risks in Louisiana insured by property and casualty insurance policies.

B. Regulation 99 applies to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as a statement or evidence of any type of property and casualty insurance coverage on property, operations, or risks located in Louisiana, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010).

§13907. Exemptions

A. Regulation 99 shall not apply to:

1. ocean marine and foreign trade insurances;
2. self insurance for workers' compensation, including any group self insurance fund pursuant R.S. 23:1195;
3. interlocal risk management agency pursuant R.S. 33:1341;
4. automobile identification cards issued pursuant to R.S. 32:863.1(A)(1)(a);
5. travel insurance;
6. credit card insurance; or
7. forced placed insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010).

§13909. Definitions

A. For the purposes of Regulation 99 and in accordance with R.S. 22:881.1 the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Certificate or Certificate of Insurance—any document, instrument, or record, including an electronic record, no matter how titled or described, which is prepared by an insurer or insurance producer and issued to a third person not a party to the subject insurance contract, as evidence of property and casualty insurance coverage. *Certificate* or *certificate of insurance* shall not mean an insurance binder.

Certificate Holder—any person, other than a policyholder, that is designated on a certificate of insurance as a *certificate holder* or any person, other than a policyholder, to whom a certificate of insurance has been issued by an insurer or insurance producer at the request of the policyholder.

Commissioner—Louisiana Commissioner of Insurance.

Electronic Record—shall have the meaning defined in R.S. 9:2602(7).

Insurance—shall have the meaning defined in R.S. 22:46(9).

Insurance Producer—shall have the same definition as set forth in R.S. 22:1542.

Insurer—an insurer as defined in R.S. 22:46(10) and any other person engaged in the business of making property and casualty insurance contracts, including but not limited to self-insurers, syndicates, risk purchasing groups, and similar risk transfer entities. *Insurer* shall not mean any person self-insured for purposes of workers' compensation, including any group self-insurance fund authorized pursuant to R.S. 23:1195 et seq., any interlocal risk management agency authorized pursuant to R.S. 33:1341 et seq., or any self-insured employer authorized pursuant to R.S. 23:1168 et seq.

LDI—Louisiana Department of Insurance.

Person—any individual, company, insurer, organization, reciprocal or inter-insurance exchange, business, partnership, corporation, limited liability company, association, trust, or other legal entity, including any government or governmental subdivision or agency.

Policyholder—a person who has contracted with a property or casualty insurer for insurance coverage.

Record—shall have the meaning defined in R.S. 9:2602(13).

Self-Insurer—any individual business or group of businesses which have created a risk purchasing group, risk retention plan, syndicate, or other form of self-insurance covering property or casualty risk exposures. *Self-insurer* shall not mean any person self-insured for purposes of workers' compensation, including any group self-insurance fund authorized pursuant to R.S. 23:1195 et seq., any interlocal risk management agency authorized pursuant to R.S. 33:1341 et seq., or any self-insured employer authorized pursuant to R.S. 23:1168 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2869 (December 2010).

§13911. Effect and Use of Certificates of Insurance

A. A certificate of insurance form that has been approved by the commissioner and properly executed and issued by a property and casualty insurer or an insurance producer, shall constitute a confirmation that the referenced insurance policy has been issued or that coverage has been bound notwithstanding the inclusion of "for information purposes only" or similar language on the face of the certificate.

B. The commissioner may approve a certificate of insurance form that does not state that the form is provided for information only or similar language, provided that the form states that the certificate of insurance does not confer any rights or obligations other than those conveyed by the policy and that the terms of the policy control

C. A certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter the coverage afforded by the policy to which the certificate of insurance makes reference.

D. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy or any validly executed endorsements of insurance provides.

E. An insurer or insurance producer may prepare or issue an addendum that clarifies, explains, summarizes, or provides a statement of the coverages provided by a policy of insurance and otherwise complies with the requirements of this Regulation 99.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2870 (December 2010).

§13913. Filing Requirements

A. No person, wherever located, may prepare, issue, or request the issuance of a certificate of insurance for risks located in this state unless the form has been filed with and approved by the commissioner.

B. No person, wherever located, may alter or modify an approved certificate of insurance form unless the alteration or modification has been approved by the commissioner.

C. The commissioner shall approve or disapprove a certificate of insurance form within 45 days of receipt of the form.

D. Each certificate of insurance form shall be filed separate and apart from other forms.

E. A person submitting a certificate of insurance form for approval shall include:

1. a cover letter which includes the person's full name and Federal Employer Identification Number (FEIN) or National Association of Insurance Commissioners (NAIC) number or producer license number;

2. any person submitting a paper filing shall include two copies of all required documents, including a stamped, self-addressed envelope(s) of sufficient size for use in returning the company's forms filed.

F. Certificate of insurance form filings shall not require:

1. a statement of compliance;
2. a filing fee.

G. Except for the statutorily approved forms in R.S. 881.1(F)(2) and §13917.A, once a certificate of insurance has been properly submitted and approved, the LDI shall assign a certificate of insurance number for the approved form. The LDI shall provide written notice to the person that the certificate of insurance has been approved. Within 30 days of receipt of the written notice, the person shall incorporate the assigned LDI number and approval date on the certificate of insurance and resubmit the form for placement on the LDI certificate of insurance website.

H. The LDI number and approval date shall be placed on the certificate of insurance in the following format:

| | | | |
|----------------|-------------|------------|------------------|
| LA. | Cert. | Assigned | |
| Dept. | of | LDI | Date |
| <u>of Ins.</u> | <u>Ins.</u> | <u>No.</u> | <u>(mm/year)</u> |
| LDI | COI | 123456 | 08 10 |

I. The commissioner will not approve any certificate of insurance that contains any references to legal or insurance requirements contained in any contracts other than the underlying contracts of insurance, including construction or service contracts.

J. The commissioner will disapprove any certificate of insurance form, or withdraw approval of a certificate of insurance form if it:

1. is unfair, misleading, or deceptive, or violates public policy;
2. violates any state statute or regulation validly promulgated by the commissioner;
3. requires certification of insurance coverages that are not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2870 (December 2010).

§13915. Certificates of Insurance Approved Prior to Promulgation of Regulation 99

A. Any person that received approval for a certificate of insurance prior to January 1, 2011, and did not receive an LDI certificate of insurance number shall provide written notice of the prior approval to the LDI. The notice of the prior approval shall include:

1. the person(s) name;
2. LDI's filing number; and
3. a copy of the approved certificate of insurance.

B. Pursuant to the written notice required in §13915.A, the LDI shall review the previously approved form to determine if it is compliant with R.S. 22:881.1 and Regulation 99. If deemed compliant, the LDI shall notify the person that the form is approved and provide the person the assigned LDI certificate of insurance number.

C. The person shall incorporate the LDI certificate of insurance number on the approved form using the format provided in §13913.H and shall resubmit the approved form to the LDI prior to use.

D. §13915.B and C do not apply to the statutorily approved forms in R.S. 881.1(F)(2) and §13917.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010).

§13917. Use of ACORD, AAIS and ISO Forms

A. Standard certificate of insurance forms promulgated by the Association for Cooperative Operations Research and Development (ACORD), the American Association of Insurance Services (AAIS), or the Insurance Services Office (ISO) shall be filed by those organizations, but are deemed approved by the commissioner unless the commissioner determines that these forms do not comply with the provisions of Regulation 99 and R.S. 22:881.1.

B. Once filed, these forms may be issued by any person authorized by such organizations to use their forms as evidence of property and casualty insurance coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010).

§13919. Notice of Cancellation

A. A person shall have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance, only if the person is named within the policy or any endorsement and the policy or endorsement, law, or regulation of this state requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance in accordance with the laws and regulations of this state and cannot be altered by a certificate of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010).

§13921. Investigations and Examinations of Complaints and Violations

A. The commissioner of insurance may examine and investigate any complaint or allegation of specific violations by any person who has allegedly engaged in an act or practice prohibited by R.S. 22:881.1. Any such examinations or complaint investigations conducted by the commissioner shall be subject to the provisions of R.S. 22:1983(J).

B. The commissioner may fine any person who willfully violates R.S. 22:881.1 not more than one thousand dollars per violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010).

§13923. Severability

A. If any Section or provision of this Regulation 99 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 99 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of Regulation 99 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010).

§13925. Effective Date

A. Regulation 99 shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36:2871 (December 2010).

James J. Donelon
Commissioner

1012#133

RULE

Department of Public Safety and Corrections Corrections Services

Board of Parole (LAC 22:XI.103, 503, 511, and 1301)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Board of Parole has amended the contents of Part XI, Board of Parole.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part XI. Board of Parole

Chapter 1. Administration

§103. Composition of the Board

A.1. The board shall be composed of seven members appointed by the governor and one ex-officio member. Of the seven members appointed by the Governor, one shall be the chairman of the board.

a. The warden, or in his absence the deputy warden, of the correctional facility in which the offender is incarcerated shall be an ex officio member of the board. When the offender is housed in a local correctional facility and the warden or deputy warden of that facility is not able to attend the offender's parole hearing, the warden, or in his absence the deputy warden, of the facility where the offender's parole hearing is held may serve as an ex officio member. The ex officio member shall not be a voting member nor shall he be counted or permitted to be counted for purposes of the number of members necessary to take board action or the number of members necessary to establish quorum. In all other respects, the ex officio member shall have all duties, authority, requirements and benefits of any other board member.

2. ...

3. One member shall be appointed from a list of names submitted by any victim's rights advocacy organization which is recognized as a nonprofit with the Internal Revenue Service, incorporated or organized in the state of Louisiana and in good standing and does not engage in political activity, with each organization submitting a list of three names. However, no person nominated by any victim's rights advocacy organization shall be appointed to serve as a member of the board who has previously been confirmed by the senate and has served as a member of the board.

4. Each member shall, except the ex officio member, devote full time to the duties of the office and shall not engage in any other business or profession or hold any other public office.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998), amended by Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010).

Chapter 5. Meetings and Hearings of the Board of Parole

§503. Selection of Three-Member Panels

A. The board shall meet in a minimum of three-member panels, except as otherwise provided in these rules.

B. The chairman of the board shall randomly assign all three-member panels. Each panel shall appoint the chairperson of that three-member panel.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq. and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010).

§511. Public Hearings

A. - B.2. ...

C.1. A unanimous vote is required to grant parole or to recommend work release regardless of the number of board members at the parole hearing, except as provided for in Subparagraph C.1.a of this Subsection.

a. The board may grant parole with two votes of a three-member panel, or, if the number exceeds a three-member panel, a majority vote of those present if all of the following conditions are met.

i. The offender has not been convicted of a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or convicted of an offense which would constitute a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S.15:541, regardless of the date of conviction.

ii. The offender has not committed any disciplinary offenses in the 12 consecutive months prior to the parole eligibility date.

iii. The offender has completed the mandatory minimum of 100 hours of pre-release programming in accordance with R.S. 15:827.1.

iv. The offender has completed substance abuse treatment as applicable.

v. The offender has obtained a GED credential, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability. If the offender is deemed incapable of obtaining a GED credential, the offender must complete at least one of the following:

- (a) a literacy program;
- (b) an adult basic education program; or
- (c) a job skills training program.

vi. The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the Secretary of the Department of Public Safety and Corrections.

b. Notwithstanding any other provision of law in this Section, no person convicted of a crime of violence against any peace officer as defined in R.S. 14:30(B), shall be granted parole except after a meeting, duly noticed and held on a date to be determined by the chairman, at which at least five of the seven members of the board are present and all members present vote to grant parole.

C.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq. and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998), amended LR 28:1597 (July 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010).

Chapter 13. Time Served

§1301. Time Must Be Served if Revoked

A.1. An offender returned to incarceration for a parole violation that does not include a new sentence for a felony

offense will be returned to serve the remainder of the original sentence as of the date of his release on parole, subject to applicable commutation statutes or good time credits and any credit for time served for good behavior while on parole.

2. ...

B. An offender returned to incarceration as a parole violator who has received a new sentence for a felony offense while on parole shall serve the remainder of the original sentence as of the date of his release on parole, subject to applicable commutation statutes or good time credits and any credit for time served for good behavior while on parole. The new sentence shall be served consecutively to the previous sentence unless a concurrent term of imprisonment is expressly directed by the court.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., R.S. 15:540 et seq. and R.S. 15:571.5.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010).

C. A. Lowe, Jr.
Chairman

1012#083

RULE

Department of Public Safety and Corrections Corrections Services

Death Penalty (LAC 22:I.103)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, has repealed LAC 22:I.103, Death Penalty in its entirety. This repeal is a technical adjustment as the information is not required to be promulgated and will remain intact and enforced as a department regulation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998), LR 25:2410 (December 1999), LR 28:2552 (December 2002), LR 29:2847 (December 2003), LR 31:1600 (July 2005), LR 31:2032 (August 2005), LR 32:2270 (December 2006), LR 36:526 (March 2010), repealed LR 36:2873 (December 2010).

James M. Le Blanc
Secretary

1012#082

RULE

Department of Public Safety and Corrections Corrections Services

Disciplinary Rules and Procedures for Adult Offenders (LAC 22:I.351 and 363)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Corrections Services, has amended the contents of §§351 and 363, Disciplinary Rules and Procedures for Adult Offenders.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

Subchapter B. Disciplinary Rules and Procedures for Adult Offenders

§351. Correcting Disciplinary Reports

A. - B.NOTE. ...

C. Evidence. The disciplinary board shall carefully evaluate all evidence presented or stipulated. In situations where the disciplinary report is based solely on information from a confidential informant or from an offender whose identity is known, there must be other evidence to corroborate the violation. That evidence may include, but is not limited to, witness statements from another confidential informant who has not been unreliable in the past and has legitimate knowledge of the present incident(s), the record (investigative report) or other evidence. If requested, the accusing employee must be summoned to testify about the reliability and credibility of the confidential informant when the report is based solely on information from a confidential informant. (In order to accomplish this, the informant must have been reliable in the past and/or have legitimate knowledge of the present incident(s).)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin V. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR27:417 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2199 (October 2008), LR 36:2873 (December 2010).

§363. Disciplinary Rules

A. ...

B. Contraband (Schedule B). No offender shall have under his immediate control any illicit drugs, any product that could be used to adulterate a urine sample, unauthorized medication, alcoholic beverage, yeast, tattoo machine, tattoo paraphernalia, syringe, any type weapon, cellular phone or component hardware or other electronic communications device, whether operational or not, (including but not limited to beepers, pagers, subscriber identity module (SIM) cards, portable memory chips, batteries for these devices, chargers, global satellite system equipment), or any other item not permitted by department regulation or institutional posted

policy to be received or possessed or any other item detrimental to the security of the facility. Money is contraband. Any item not being used for the purpose for which it was intended will be considered contraband if it is being used in a manner that is clearly detrimental to the security of the facility. Possession and/or use of lighted cigarettes or other smoking materials are deemed to be contraband in non-smoking areas. To smuggle or attempt to smuggle prohibited items into or out of the facility will be in violation of this Rule.

B.1. - X.20. ...

21. starting, causing, assisting in the creation of any fire, heat or spark of any nature by any means or methods, or attempting to start a fire and/or attempting to heat substances utilizing electrical/mechanical devices or any other means, other than in the performance of an approved work assignment;

22. - 23. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995), Cassels v. Stalder, 342 F. Supp. 2d 555.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005), LR 34:2201 (October 2008), LR 36:2873 (December 2010).

James M. Le Blanc
Secretary

1012#081

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Video Draw Poker (LAC 42:XI.2407 and 2424)

The Louisiana Gaming Control Board hereby gives notice that it has amended 42:XI.2407.D.17 and adopted LAC 42:XI.2424.

**Title 42
LOUISIANA GAMING
Part XI. Video Poker**

Chapter 24. Video Draw Poker

§2407. Operation of Video Draw Poker Devices

A. - D.16. ...

17. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:85 (January 1999), LR 27:205 (February 2001), LR 30:267 (February 2004), repromulgated LR 30:441 (March 2004), amended LR 33:857 (May 2007), LR 36:2046 (September 2010), LR 36:2874 (December 2010).

§2424. Enforcement Actions of the Board

A. Pursuant to R.S. 27:308 et seq., in lieu of other administrative action, the division may impose a civil penalty as provided for in the penalty schedule contained in Subsection B.

B. Penalty Schedule

| Regulation Number | Violation Description | 1st | 2nd | 3rd |
|--------------------------------|--|------|------|--------------|
| Application And License | | | | |
| 2405 A 15 | Improperly Notarized Documents | 1000 | 2000 | Admin Action |
| 2405 B 2 | Failure To Conspicuously Display License | 100 | 200 | 300 |
| 2504 B 3c | Failure To Renew Gaming License 45 Days Prior To Expiration Of License | 250 | 500 | 1000 |
| 2405 B 7 | Failure To Attend Required Hearings, Meetings, Etc. | 500 | 1000 | Admin Action |
| Video Gaming Devices | | | | |
| 2407 A 1 | No Des Rep/Failure To Monitor VGD/Gaming Area | 250 | 500 | 1000 |
| 2407 A 3 | Allowing Intoxicated Persons To Play Video Devices | 250 | 500 | 1000 |
| 2407 A 4 | Failure Of Licensee To Supervise Employees To Ensure Compliance With Regulations | 100 | 200 | 300 |
| 2407 A 5 | Failure To Pay Valid Ticket Voucher On Demand | 500 | 750 | 1000 |
| 2407 A 6 | Proper Placement Of Devices | 100 | 200 | 300 |
| 2407 A 7 | Licensee Shall Advise The Division Of Any Device Malfunction That Has Not Been Rectified By The Device Owner Within 24 Hours | 250 | 500 | 1000 |
| 2407 A 9 | Keys Shall Be Secure And Available To The Division | 100 | 200 | 300 |
| 2407 A 10 | Loss Of Access Of Device Telephone Line | 250 | 500 | 1000 |
| 2407 A 12 | Licensee Shall Post Signs At Entrances To Gaming Area/Restricting Play/3 Inch Lettering | 250 | 500 | 1000 |
| 2407 A 13 | Current Copy Of Administrative Rules Not Available | 100 | 200 | 300 |
| 2407 A 14 | No Hotline Number/Compulsive Gambling Toll Free Number Signs | 250 | 500 | 1000 |
| 2407 B 2 | Video Draw Poker Employee Permit | 25 | 50 | 75 |
| 2407 B 8 | Designated Reps Shall Locate Records and Documents | 250 | 500 | 1000 |
| 2407 C 1 | Employee Shall Be Available To Redeem Valid Tickets | 250 | 500 | 1000 |
| 2407 C 1a | Ticket Vouchers Shall Be Redeemed For Cash Only | 250 | 500 | 1000 |

| Regulation Number | Violation Description | 1st | 2nd | 3rd |
|--|---|-----|------|--------------|
| 2407 C 1e | The Phrase "Any Malfunction Voids All Plays And Pays" Shall Be Displayed On The Face Of Devices | 100 | 200 | 300 |
| 2407 C 1f | Failure To Make Timely Payments As Required | 500 | 1000 | Admin Action |
| 2407 D | Advertising Violation | 500 | 750 | 1000 |
| Revenues | | | | |
| 2409 C 2d | Insufficient Funds Available For Electronic Transfer -- Fine Plus Interest As Per Rule | 500 | 1000 | Admin Action |
| 2409 C 3 | A Device Owner Who Has A Non-Sufficient Fund Return W/I The Past 3 Years Shall Be Required To Maintain A Minimum Balance In The Sweep Account Or Secure With A Line Of Credit Or Bond | 500 | 1000 | Admin Action |
| 2409 E 2 | Failure To Have All Records Requested Readily Available For Audit | 500 | 1000 | Admin Action |
| Regulatory, Communication, And Reporting Responsibilities | | | | |
| 2411 A 6 | Failure To Provide Semi-Annual, Quarterly, Or Monthly Report Requested By Date Required | 500 | 1000 | Admin Action |
| 2411 A 7 | Failure To Retain All Records For A Period Of Three Years (Manufacturers-Five Years) | 500 | 1000 | Admin Action |
| 2411 A 9 | Failure To Maintain Required Records, Submit All Reports, And Keep The Division Informed In Writing Of Changes | 500 | 1000 | Admin Action |
| 2411 A 10a | Failure To Keep And Maintain Bank Account Documents | 500 | 1000 | Admin Action |
| 2411 A 10b | Failure To Keep And Maintain Business Records | 500 | 1000 | Admin Action |
| 2411 A 12 | All Licensed Manufacturers And Distributors Shall Maintain A Current Record Of Devices Received, Sold, And In Inventory | 500 | 1000 | Admin Action |
| 2411 A 14 | Failure To Provide A Current List Of Authorized Service Personnel | 500 | 1000 | Admin Action |
| 2411 B 1 | Failure To Provide A Semi-Annual Report Requested | 500 | 1000 | Admin Action |
| 2411 D 3 | Failure Of Device Owner To Maintain All Audit Tapes For A Period Of 3 Years | 250 | 500 | 1000 |
| 2411 D 6 | Failure To Notify Division Technical Staff Prior To Removal Of Devices From Service For Less Than 72 Hours – Per Device | 250 | 500 | 1000 |
| 2411 D7 | Devices Disabled From The Central Computer For More Than 72 Hours Shall Be Transferred To The Device Owner's Warehouse Or Service Entity And The Division Notified With The Proper Paperwork Within Five Business Days – Per Device | 250 | 500 | 1000 |
| 2411 E1 | Failure Of Licensed Establishment To Provide Quarterly Report Requested By Division | 500 | 1000 | Admin Action |
| 2411 E 3 | Failure Of Licensed Truck Stops To Provide Monthly Fuel Sales Reports | 500 | 1000 | Admin Action |
| 2411 F 1 | Failure Of Licensed Service Entity To Maintain Required Records | 250 | 500 | Admin Action |
| 2411 F 2 | Failure Of Licensed Service Entity To Have A Certified Technician And Adequate Facilities Approved By The Division | 250 | 500 | Admin Action |
| 2411 G 3 | Failure To Submit Device Forms Required By The Division In A Timely Manner | 250 | 500 | 1000 |
| 2411 H 2 | Failure To Provide Copies Of Written Contracts Pertaining To The Operation Of Devices Within 10 Business Days Of Making Such Contract | 500 | 1000 | Admin Action |
| Devices | | | | |
| 2413 A 1 E | Unapproved Information On Device Screen/Housing | 100 | 200 | 300 |
| 2413 A 1 E ii | The Phrase "No Persons Under The Age Of 21 Allowed To Play" Shall Be Conspicuously Displayed On The Face Of All Devices | 100 | 200 | 300 |
| 2413 A 1 L | Device Must Have An Approved And Functioning Security System For Temporarily Disabling Device And Alerting The Central System When The Device Is Opened | 250 | 500 | 1000 |
| 2413 E 1 | Only Certified Technicians May Access The Interior Of An Enrolled And Enabled Device | 250 | 500 | 1000 |
| 2413 E 2 | All Device Owners Shall Maintain A Current, Written Maintenance Log For Each Device Operating Within A Licensed Establishment On A Division Approved Form | 100 | 200 | 300 |
| 2413 E 3 | A Division Approved Ram Clear Chip And Procedure Shall Be Used When A Device's Memory Is To Be Cleared | 500 | 1000 | Admin Action |
| 2413 E 4 | Prior Approval Must Be Obtained Before A Software Program Is Changed In Any Device | 500 | 1000 | Admin Action |
| 2413 E 7 | The Division Shall Be Notified Before A Device Is Disconnected From Central Computer | 500 | 1000 | Admin Action |
| 2413 F 1 | Failure To Provide Information Of Shipment Of Devices And Obtaining Division Approval | 500 | 750 | 1000 |
| 2413 F 2 | Failure To Provide Division With The Make, Model, Serial Number And An Inventory Of The Devices Being Shipped | 500 | 750 | 1000 |
| 2413 F 4 | Devices Shall Be Shipped Within Ten Business Days Of The Notification And Approval | 500 | 750 | 1000 |
| 2413 G 1 | Failure To Request Local Law Enforcement To Investigate Damage Or Theft Of Any Device | 250 | 500 | 1000 |

| Regulation Number | Violation Description | 1st | 2nd | 3rd |
|------------------------------------|---|---|--------------|------------------------------|
| 2413 G 2 | Failure To Obtain And Forward Requested Reports To The Division After Investigation | 250 | 500 | 1000 |
| 2413 G 3 | The Device Owner Or Licensed Establishment Shall Notify The Division, In Writing, Of Any Damage To Or Theft From A Device | 250 | 500 | 1000 |
| 2413 H 2 | The Completed Device Transfer Report Shall Be Submitted To The Division Within Five Business Days | 200 | 400 | 600 |
| 2413 H 3 | No Devices Which Are Permanently Removed From Service Shall Have A Validation Decal Displayed On It | 200 | 400 | 600 |
| Gaming Establishments | | | | |
| 2415 B 2 | All Type 5 Establishments With 20 Or More Devices Shall Provide Video Surveillance Approved By Division | 500 | 1000 | Admin Action |
| 2415 C 1 | Device Groupings Shall Be Physically Located Within The Licensed Establishment | 250 | 500 | 1000 |
| 2415 C 2 | No Device Shall Be Placed Closer Than Twelve Inches To Any Other Device (May Be Placed Back To Back) | 100 | 200 | 300 |
| 2415 D 1 | No Licensed Establishment Shall Be Altered Or Renovated Dealing With Devices Without Division Approval | 500 | 1000 | Admin Action |
| 2415 D 2 | Any Licensed Establishment That Allows Mixed Patronage Shall Have Devices In Designated Areas With A Partition | 250 | 500 | 1000 |
| 2415 D 3a | A Licensed Establishment That Is Connected To Another Business Shall Have A Door Between Them That Automatically Closes | 250 | 500 | 1000 |
| 2415 D 3b | A Licensed Establishment That Is Connected To Another Business Shall Have A Separate Outside Entrance | 250 | 500 | 1000 |
| 2415 D 3c | A Licensed Establishment That Is Connected To Another Business Shall Keep Records Separate | 250 | 500 | 1000 |
| 2415 D 3d | A Licensed Establishment That Is Connected To Another Business Shall Have Personnel That Are Solely Employed By The Licensed Establishment | 250 | 500 | 1000 |
| 2415 D 4 | The Parking Area Of A Truck Stop Facility Shall Be In Compliance With All Federal, State And Local Laws | 250 | 500 | 1000 |
| Code Of Conduct Of Licensee | | | | |
| 2417 A 1 | All Licensees And Permittees Shall Comply With All Applicable Federal, State, And Local Laws And Regulations | 250 | 500 | 1000 |
| 2417 B 4 | All Licensees And Permittees Shall Have A Continuing Duty To Notify The Division Of Any Fact, Event, Occurrence, Matter Or Action That May Affect The Conduct Of Gaming. Such Notification Shall Be Made Within Ten Calendar Days Regarding But Not Limited To The Following: | | | |
| | Non-Disqualifying Misdemeanor Arrest | 250 | 250 | 250 |
| | Disqualifying Misdemeanor Or Felony Arrest | 500 | 1000 | Admin Action 250 |
| | Death (Owner/Member/Officer/Revenue Recipient) | 250 | 250 | 250 |
| | Marriage/Divorce/Death Of Spouse | 250 | 250 | Admin Action Admin Action |
| | Stock Or Interest Transfer | 500 | Admin Action | Admin Action |
| 2417 C 1 1 | Company Structure Change (Conversion/Merger Etc) | 500 | Admin Action | Admin Action |
| | Company Management Structure Change | 500 | Admin Action | Admin Action |
| 2417 C 1 1 | Failure To Respond In A Timely Manner To Communications From The Division Or Board (10-Day Letters) | 500 | 1000 | 2000 |
| Investigations | | | | |
| 2419 B 2 | All Licensees Shall Make Available To The Division Records Requested | 500 | 1000 | Admin Action |
| 2419 B 3b | All Devices Shall Have, At All Times, The Proper Validation Decal Affixed To The Device And Maintenance Log Books Properly Secured And Available For Inspection | 250 | 500 | Admin Action |
| Miscellaneous | | | | |
| 27:301.B (12) A | Expired ATC Permits Renewed during Investigation or Adjudication Establishments Primarily Engaged in the Retail Sale of Prepared Foods and Alcoholic Beverages Must Possess a Valid Class A-General Retail Permit or a Class A-Restaurant Permit | 1000 Plus 500 For Each 30-Day (or Portion of A 30-Day) Period | | |
| 27:311 F (2) | A Non-Sufficient Fund Return | 250 | 500 | 1000 or Admin Action |
| 27:311 K 4 (B) | Required Annual Fees Submitted after July First, but on or before July Thirty-First | Type 1 Or 2 License 250 | | Type 3 – 8 License 500 |
| 27:311 K 4 (C) | Required Annual Fees Submitted after July Thirty-First, but on or before August Thirty-First | Type 1 Or 2 License 500 | | Type 3 – 8 License 1000 |

| Regulation Number | Violation Description | 1st | 2nd | 3rd |
|-------------------|--|------|------|-------------|
| 27:311 L | A Complete Renewal Application Filed within 30 Calendar Days after the Expiration of the License | 500 | | |
| 27:319 | Allowing Underage Patron to Play Video Gaming Device | 1000 | 1000 | Revo-Cation |

C. A violation shall be considered a second or subsequent violation in accordance with the provisions of R.S. 27:308.1(D)(1)(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Louisiana Gaming Control Board. LR 36:2874 (December 2010).

Dane K. Morgan
Chairman

1012#136

RULE

Department of Revenue Policy Services Division

Income Tax Withholding on Gaming Winnings (LAC 61:I.1525)

Under the authority of R.S. 47:164(D), R.S. 47:241 et seq., 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 adopted LAC 61:I.1525 relative to income tax withholding on gaming winnings. The primary purpose of this regulation is to require anyone paying gaming winnings to withhold on those winnings if the IRS requires withholding on the winnings.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 15. Income: Withholding Tax

§1525. Income Tax Withholding on Gaming Winnings

A. Withholding Requirement for Gaming Winnings

1. Every person or business that pays gaming winnings won in Louisiana is required to withhold individual income taxes at a rate of six percent if income taxes are required to be withheld for the Internal Revenue Service under 26 USC 3402 on the same winnings.

2. Additionally following current Department of Revenue practice, casinos that pay slot machine winnings in excess of \$1,200 should issue a form W2-G and withhold at a rate of 6 percent of the slot machine winnings regardless of the Internal Revenue Code withholding on such slot machine winnings.

B. Reporting Requirements for Gaming Winnings

1. Businesses that withhold income taxes on gaming winnings shall electronically report and remit the withholdings to the Louisiana Department of Revenue quarterly.

2. Businesses required to withhold and to submit income taxes on gaming winnings shall send the Department of Revenue a report electronically containing a list of all winners annually in a format approved by the department. The report shall contain the following information as printed on federal form W-2G:

a. the payor's name, address, and federal identification number;

b. the winner's name, address, social security number, gross winnings, amount of federal income taxes withheld, and amount of state income taxes withheld.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.71, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Service Division, LR 36:2877 (December 2010).

Cynthia Bridges
Secretary

1012#130

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Division of Programs

Child Support Enforcement—Securing and Enforcing Medical Support Obligation (LAC 67:III.2527)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services, Division of Programs, Child Support Enforcement Section, proposes to amend the Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 4, Support Enforcement Services, Chapter 25, Subchapter H, Section 2527, Securing and Enforcing Medical Support Obligation, pursuant to Act 299 of the 2010 Regular Session of the Louisiana Legislature.

Act 299 of the 2010 Regular Session of the Louisiana Legislature provides for medical support for minor children subject to child support orders, provides for definitions, and for related matters. In accordance with Act 299, the department proposes to amend Section 2527 to clarify matters relative to providing medical support for minor children subject to child support orders.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter H. Medical Support Activities

§2527. Securing and Enforcing Medical Support Obligation

A. Child Support Enforcement (CSE) shall secure medical support information and enforce medical support through the use of the national medical support notice.

B. Unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid, IV-D shall petition the court to include health insurance that is available to either or both parent(s) at reasonable cost in new or modified orders for support. Reasonable cost, as it pertains to private health insurance, means that the health insurance premiums for the minor child or children do not exceed 5 percent of the gross income of the parent ordered to provide support pursuant to R.S. 9:315.4. A medical support order shall be obtained whether or not health insurance is actually available to either or both parent(s) at the time the order is entered, or modification of current coverage to include the child(ren) in question is immediately possible.

C. The IV-D agency will take steps to enforce the medical support order if health insurance is available to either or both parent(s) at reasonable cost but has not been secured at the time the order is issued.

D. CSE may enforce court-ordered medical support by means of income assignment in cases where the court has ordered cash medical support.

E. CSE shall require the employer of a parent who is court-ordered to provide medical support to enroll and maintain available health insurance on a child.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.31 and 303.32, R.S. 46:236.1.1, 46:236.1.2, 46:236.3, Ch.C. Art.1305.1 et seq., 46:236.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:245 (April 1986) amended by the Department of Social Services, Office of Family Support, LR 22:118 (February 1996), LR 31:1102 (May 2005), amended by Department of Children and Family Services, Division of Programs, LR 37:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will increase the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? This Rule will provide parents with avenues in providing medical support to their child(ren).

4. What effect will this Rule have on family earnings and family budget? This Rule may impact the disposal income.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will provide parents with avenues in providing medical support to their child(ren).

6. Is the family or local government able to perform the function as contained in these proposed rules? The family will be able to perform the functions. No effect to local government.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

All interested persons may submit written comments through January 25, 2011, to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, Post Office Box 94065, Baton Rouge, LA 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on January 25, 2011 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 10

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).

Ruth Johnson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Child Support Enforcement—Securing
and Enforcing Medical Support Obligation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule proposes to amend Title 67, Part III, Subpart 4, Section 2527 of the Louisiana Administrative Code (LAC). In accordance with Act 299 of the 2010 Regular Session of the Louisiana Legislature, the proposed rule amends Section 2527 to clarify matters relative to providing medical support for minor children subject to child support orders. Also, the proposed rule changes the name of Support Enforcement Services (SES) to Child Support Enforcement (CSE).

The only cost associated with this rule is the cost of publishing rulemaking and printing policy, which is estimated to be approximately \$1,000.00. This is a one-time cost that is routinely included in the agency's annual operating budget.

**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 as a result of this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

In the past, each court decided reasonable cost. Some courts had reasonable cost as high as 25% of gross income. As a result of this proposed rule, any parent ordered to provide health insurance over the new standard reasonable cost definition of 5% of gross income may request a modification of child support orders which would potentially result in an economic benefit. However, the department cannot determine the number of parents that will seek a modification of child support.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed rule will have no impact on competition or employment.

Sammy Guillory
Deputy Assistant Secretary
1012#088

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Children and Family Services
Division of Programs**

Portability of Criminal History, Religious
Exemption, and Sex Offenders
(LAC 67:III.Chapter 73)

Notice is hereby given in accordance with provisions of the Administrative Procedure Act R.S. 49:950 et seq., the Department of Children and Family Services, Division of Programs, Licensing Section proposes to amend the

Louisiana Administrative Code (LAC) Title 67, Part III, Sections 7302, 7303, 7305, 7311, 7357, 7359, 7361 and 7365, Child Care Licensing, to comply with Acts 429, 508 and 569 of the 2010 Regular Session of the Louisiana Legislature and Act 210 of the 2009 Regular Session of the Louisiana Legislature.

Pursuant to Act 508 of the 2010 Legislative Session, the Department of Children and Family Services finds it necessary to allow for the portability of criminal history information. This proposed Rule will allow an individual applying for a position of supervisory or disciplinary authority over children in a child care facility, or an independent contractor who performs work in a child care facility, to receive a certified copy of his/her criminal history information upon written request to the Bureau of Criminal Identification and Information Section of the Louisiana State Police. The certified copy of the criminal background check may be accepted by a prospective employer and shall be deemed to satisfy the requirements of R.S. 15:587.1 for each facility requesting criminal history information for a period of one year from the date of issuance of the certified copy.

In accordance with Acts 429 and 569 of the 2010 Legislative Session a recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code, which remains open for not more than 24 hours in a continuous 7-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall not be considered a "day care center" for the purposes of this Chapter. In addition, there shall be a moratorium on the enforcement of any rule and regulation by the Department of Children and Family Services upon a child care facility, operated by a religious, nonprofit organization which is exempt from federal income taxes pursuant to 26 U.S.C. 501(c)(3), and which was not licensed as either a Class "A" or Class "B" facility on June 1, 2010, and provides childcare for not less than 25 hours and not more than 40 hours in a continuous 7-day week. This moratorium shall terminate and cease to be effective upon July 1, 2011.

Pursuant to Act 210 of the 2009 Legislative Session, any person that has been convicted of a sex offense as defined in R.S. 15:541, is prohibited from owning, operating, or in any way participating in the governance of a child day care facility. The department also prohibits any employer from knowingly employing a person convicted of a sex offense as defined in R.S. 15:541, to work in a day care center or a child day care facility. This Rule shall also require any owner/owners of a child day care facility to provide documentation of a satisfactory criminal record check, as required by R.S. 15:587.1.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

**Subchapter A. Licensing Class "A" Regulations for
Child Care Centers**

§7302. Authority

A. Legislative Provisions

1. The state of Louisiana, Department of Children and Family Services, is charged with the responsibility for developing and publishing standards for the licensing of

child care centers. The licensing authority of the Department of Children and Family Services is established by R.S. 46:1401 et seq., making mandatory the licensing of all child care facilities and child placing agencies, including child care centers. R.S. 46:1403 defines a child day care facility as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

2. In accordance with Act 429 and Act 569 of the 2010 Legislative Session, a recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code, which remains open for not more than 24 hours in a continuous 7-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall not be considered a "day care center" for the purposes of this Chapter. In addition, there shall be a moratorium on the enforcement of any rule and regulation by the Department of Children and Family Services upon a child care facility, operated by a religious, nonprofit organization which is exempt from federal income taxes pursuant to 26 U.S.C. 501(c)(3), and which was not licensed as either a Class A or Class B facility on June 1, 2010, and provides childcare for not less than 25 hours and not more than 40 hours in a continuous 7-day week. This moratorium shall terminate and cease to be effective upon July 1, 2011.

B. - F.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:332 (February 2010), LR 36:847 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:

§7303. Procedures

A. - A.2.g.viii. ...

ix. three current, positive, signed references on director designee (if applicable);

x. licensure survey verifying compliance with all minimum standards;

xi. documentation of a satisfactory criminal record clearance for all staff including all owners and operators; and

xii. documentation of completed State Central Registry Disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff or documentation from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children.

3. - 4.h. ...

i. three current, positive, signed references on director designee (if applicable);

j. copy of bill of sale;

k. documentation of a satisfactory criminal record clearance for all owners and operators and all staff not employed by the previous owner; and

1. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff or documentation from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children.

NOTE: If the above information is not received prior to the sale or day of the sale, the new owner must not operate until a license is issued. When the application is received, it will be treated as an initial application rather than a change of ownership.

A.5. - C.3. ...

4. The bureau shall be notified prior to making changes which may have an effect upon the license, e.g., age range of children served, usage of indoor and outdoor space, director, hours/months/days of operation, transportation, etc.

D. Denial, Revocation or Non-Renewal of License. An application for a license may be denied, or a license may be revoked, or renewal denied, for any of the following reasons:

1. - 14. ...

15. presence or use of any recalled product by the provider that is listed in the newsletters issued by the Office of the Attorney General;

16. failure to attend any mandatory training session offered by the bureau;

17. presence of an individual with a justified (valid) finding of child/abuse neglect not being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry until a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to children;

18. presence of an individual on the child care premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to children and the individual has not requested an appeal hearing by the Division of Administrative Law within the required time frame;

19. presence of an individual on the child care premises with a ruling by the Division of Administrative Law that the individual poses a risk to children; or

20. having knowledge that a convicted sex offender is physically present within 1000 feet of the child care facility and failing to notify law enforcement and licensing management staff immediately upon receipt of such knowledge.

E. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007), amended LR 36:333 (February 2010), LR 36:832 (April 2010), repromulgated LR 36:1272 (June 2010), amended LR 36:1279 (June 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:

§7305. General Requirements

A. - M. ...

N. Conditions for Participation in a Child-related Business

1. Any owner/owners of a child day care facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and R.S. 15:587.1. A criminal background check shall be required of each owner of a facility submitting a new application, change of ownership application, change of location application, and/or application for renewal for a child day care license. No person with a criminal conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

2. New members/owners added to a partnership, church, corporation, limited liability corporation or governmental entity which does not constitute a change of ownership shall provide documentation of a satisfactory criminal record check as required by R.S. 46:51.2 and R.S. 15:587.1. No member/owner with a criminal conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

3. Every owner shall submit the criminal background check showing that he or she has not been convicted of any offense enumerated in R.S. 15:587.1 or a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, together with the initial application or, in the case of an existing center, with the application for renewal of the license. If the criminal background check shows that any owner has been convicted of any enumerated offense under R.S. 15:587.1 or a felony, a plea of guilty or nolo contendere of a felony, or any offense involving a juvenile victim, the owner or director shall submit the information to the licensing section management staff within 24 hours or no later than the next business day, whichever is sooner, upon receipt of the result.

4. The physical presence of a sex offender in, on, or within 1,000 feet of a child day care facility is prohibited. Providers and child care staff shall not permit an individual convicted of a sex offense, as defined in R.S. 15:541, physical access to a child day care facility, as defined in R.S. 46:1403.

5. The owner or director of a child day care facility shall be required to call and notify law enforcement agencies and the licensing section management staff if a sex offender is on the premises of the child day care facility or within 1,000 feet of the child day care facility. The licensing office shall be contacted immediately. The verbal report shall be followed by a written report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department

of Social Services, Office of Family Support, LR 33:2759 (December 2007), amended LR 36:333 (February 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:

§7311. Personnel Records

A. - A.4. ...

5. documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be eligible to own, operate, and/or be present in any capacity in any licensed child care facility. For any owner or operator, a clear criminal background check in accordance with R.S. 46:51.2 shall be obtained prior to the issuance of a license or approval of a change of ownership. In addition, neither an owner, nor a director, nor a director designee shall have a conviction of, or pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense.

a. An individual who applies for a position of supervisory or disciplinary authority over children in a child care facility may provide a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed. However, prior to the one year date of issuance of the certified criminal background check, the provider shall request and obtain a satisfactory criminal check from Louisiana State Police in order for the individual to continue employment at the center. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the staff person is no longer allowed on the child care premises until a clearance is received.

B. The following information shall be kept on file for independent contractors including therapeutic professionals and extracurricular personnel, e.g. computer instructors, dance instructors, librarians, tumble bus personnel, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, art instructors, and other outside contractors:

1. documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S.14:2, R.S.15:541 or any offense involving a juvenile victim, shall be present in any capacity in any child care facility.

a. Independent contractors, therapeutic professionals, and/or extracurricular personnel may provide a certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police to the provider prior to

being present and working with a child or children at the facility. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility. Prior to the one year date of issuance of the certified copy, the individual shall request and obtain a current certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police in order to continue providing services to a child or children at the child care facility. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the individual shall no longer be allowed on the child care premises until a clearance is received. This criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility.

B.2. - C.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1114 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2762 (December 2007), amended by the Department of Children and Family Services, Division of Programs, LR 37:

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

Subchapter B. Licensing Class "B" Regulations for Child Care Centers

§7357. Definitions

A. The following are definitions of terms used in these minimum standards.

* * *

Child Day Care Center—a child day care facility as defined in R.S. 46:1403, including vehicles or other structures owned or operated by the provider where care and supervision of children are provided, or where some process or operation integral to providing or facilitating care or supervision is conducted.

* * *

Extra-Curricular Personnel/Therapeutic Professionals—individuals who are not employees of the center, but who come to the center to provide therapy, services, or enrichment activities for an individual child or group of children. Examples: computer instructor, dance instructor, librarian, tumble bus personnel, therapeutic personnel (occupational therapist, physical therapist, speech therapist), nutritionist, early interventionist, and nurse.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by

the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:334 (February 2010), LR 36:850 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:

§7359. Procedures

A. - A.2.f.v. ...

vi. licensure survey verifying compliance- with all minimum standards;

vii. documentation of a satisfactory criminal record clearance for all staff including all owners and operators;

viii. documentation of completed State central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff or documentation from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children.

3. - 4. ...

a. documentation of a satisfactory criminal record clearance for all owners and operators and all staff not employed by the previous owner; and

b. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff or documentation from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children.

A.5. - F.10. ...

11. presence of an individual with a justified (valid) finding of child/abuse neglect not being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry until a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to children;

12. presence of an individual on the child care premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to children and the individual has not requested an appeal hearing by the Division of Administrative Law within the required time frame;

13. presence of an individual on the child care premises with a ruling by the Division of Administrative Law that the individual poses a risk to children;

14. having knowledge that a convicted sex offender is physically present within 1000 feet of the child care facility and failing to notify law enforcement and licensing management staff immediately upon receipt of such knowledge.

G. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2771 (December 2007), amended by the Department of Social Services, Office of Family Support LR 36:832 (April 2010), LR 36:1272(June 2010), LR 36:1279 (June 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:

§7361. General Requirements

A. - L. ...

M. Conditions for Participation in a Child-Related Business

1. Any owner/owners of a child day care facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and R.S. 15:587.1. A criminal background check shall be required of each owner of a facility submitting a new application, change of ownership application, change of location application, and/or application for renewal for a child day care license. No person with a criminal conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

2. New members/owners added to a partnership, church, corporation, limited liability corporation or governmental entity which does not constitute a change of ownership shall provide documentation of a satisfactory criminal record check as required by R.S. 46:51.2 and R.S. 15:587.1. No member/owner with a criminal conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

3. Every owner shall submit the criminal background check showing that he or she has not been convicted of any offense enumerated in R.S. 15:587.1 or a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, together with the initial application or, in the case of an existing center, with the application for renewal of the license. If the criminal background check shows that any owner has been convicted of any enumerated offense under R.S. 15:587.1 or a felony, a plea of guilty or nolo contendere of a felony, or any offense involving a juvenile victim, the owner or director shall submit the information to the licensing section management staff within 24 hours or no later than the next business day, whichever is sooner, upon receipt of the result.

4. The physical presence of a sex offender in, on, or within 1,000 feet of a child day care facility is prohibited. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 physical access to a child day care facility as defined in R.S. 46:1403.

5. The owner or director of a child day care facility shall be required to call and notify law enforcement agencies and the licensing management staff if a sex offender is on the premises of the child day care facility or within 1,000 feet of the child day care facility. The licensing office shall be contacted immediately. The verbal report shall be followed by a written report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1638 (August 2000),

repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007), amended LR 36:335 (February 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:

§7365. Center Staff

A. - C.3. ...

4. Criminal Records Check. Documentation of a satisfactory criminal records check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be eligible to own, operate, and/or be present in any capacity in any licensed child care facility. For any owner or operator, a clear criminal background check in accordance with R.S. 46:51.2 shall be obtained prior to the issuance of a license or approval of a change of ownership. In addition, neither an owner, nor a director, nor a director designee shall have a conviction of, or pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense.

a. An individual who applies for a position of supervisory or disciplinary authority over children in a child care facility may provide a certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed. However, prior to the one year date of issuance of the certified criminal background check, the provider shall request and obtain a satisfactory criminal check from Louisiana State Police in order for the individual to continue employment at the center. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the staff person is no longer allowed on the child care premises until a clearance is received.

b. The following information shall be kept on file for independent contractors including therapeutic professionals and extracurricular personnel, e.g. computer instructors, dance instructors, librarians, tumble bus personnel, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, art instructors, and other outside contractors.

i. Documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be present in any capacity in any child care facility.

ii. Independent contractors, therapeutic professionals, and/or extracurricular personnel may provide a certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police to the provider prior to

being present and working with a child or children at the facility. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility. Prior to the one year date of issuance of the certified copy, the individual shall request and obtain a current certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police in order to continue providing services to a child or children at the child care facility. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the individual shall no longer be allowed on the child care premises until a clearance is received. This criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility.

c. No felon shall be employed in a Class "B" facility, unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer.

C.5. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1639 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2774 (December 2007), amended by the Department of Children and Family Services, Division of Programs, LR 37:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? There will be no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will help to ensure that the individuals who own, operate, or govern child care facilities and those who are responsible for the education and supervision of children in child care facilities, have satisfactory criminal background clearances and have not been convicted of a sex offense.

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, this is strictly an agency function.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Public Comments

All interested persons may submit written comments through, January 25, 2011, to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, Post Office Box 94065, Baton Rouge, LA, 70804-9065.

Public Hearing

A public hearing on the proposed Rule will be held on January 25, 2011, at the Department of Children and Family Services, Iberville Building, 627 N. Fourth Street, Seminar Room 1-127, 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).

Ruth Johnson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Portability of Criminal History, Religious Exemption, and Sex Offenders

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend the Louisiana Administrative Code (LAC) 67, Part III, Subpart 21 Child Care Licensing, Chapter 73 Day Centers, to comply with Acts 429, 508 and 569 of the 2010 Regular Session of the Louisiana Legislature and Act 210 of the 2009 Regular Session of the Louisiana Legislature.

Act 508 pertains to the portability of criminal history information. This amendment shall allow an individual applying for a position or an independent contractor to receive a certified copy of his/her criminal history information from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police. In accordance with Acts 429 and 569, a religious organization, which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code, will not be considered a "day care center" and shall be exempt from licensing. Pursuant to Act 210, any person who has been convicted of a sex offense as defined in R.S. 15:541, is prohibited from owning, operating, or in any way participating in the governance of a child day care facility.

DCFS shall mail a notice to approximately 1,900 child day care centers stating that information on these new rules is posted on the DCFS Web site at an estimated cost of \$1,214. The publishing of rulemaking and policy is estimated to be approximately \$1,638. The total cost to implement these rule changes for FY 11 is \$2,852.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 508 may positively impact the Louisiana State Police that charges a fee for certified copies of the criminal background information. This fee has always been charged to obtain this information. However, the department cannot determine the number of individuals that will obtain certified copies of criminal background information as a result of this rule. Acts 429, 569 and 210 will have no estimated effect on revenue collections of state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Act 508 requires that the prospective employee pay for a certified copy of his/her criminal background history information which results in cost increase for prospective employees. Also, Act 508 results in a potential economic benefit for providers due to decreased costs providers may realize as result of prospective employees now paying for their criminal background history. Act 210 may economically impact current and potential owner/owners of a child day care facility because they will have to pay for and provide a criminal background clearance in order to own, operate or participate in the governance of a child day care facility. However, the number of individuals that this rule will impact is impossible to determine. Acts 429 and 569 do not result in significant costs and/or economic benefits for providers or clients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Act 508 provides that the certified copy of the criminal background information is acceptable for one year from the date of issuance. A provider may hire individuals who have a satisfactory criminal background clearance expeditiously. Act 210 prohibits any employer from knowingly employing a person convicted of a sex offense as defined in R.S. 15:541, to work in a day care center or a child day care facility. However, the number of individuals that this rule will affect is impossible to determine. Acts 429 and 569 do not significantly affect competition and employment in the child care industry.

Sammy Guillory
Deputy Assistant Secretary
1012#089

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.708 and 709)

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 revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System: §708. Using a Graduation Rate in the Subgroup Component and §709. Failing the Subgroup Component.* Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state’s accountability system is an evolving system with different components that are required to change in response to state and federal laws and regulations. Proposed changes in Bulletin 111, Chapter 7,

provide detail for the subgroup portion of the Louisiana School and District Accountability System to include the additional academic indicator for schools with a twelfth grade to be evaluated consistent with procedures required by the U.S. Department of Education. These proposed changes will also include the establishment of annual targets for schools and subgroups within schools, removal of "confidence intervals" as required by the U.S. Department of Education, and establishment of waiver procedures for schools entering School Improvement 1 under certain conditions.

Title 28

EDUCATION

Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 7. Subgroup Component

§708. Using a Graduation Rate in the Subgroup Component

A. - B. ...

C. The additional academic indicator (AAI) calculation shall comply with High School Graduation Rate: *Non-Regulatory Guidance* (December 22, 2008) published by the U. S. Department of Education.

1. For subgroup accountability purposes, Louisiana high schools shall use an increasing target for the additional academic indicator.

2. For subgroup accountability purposes, Louisiana’s high school annual targets shall increase annually as shown in the following table.

| Louisiana Annual Graduation Rate Targets | | | | | | |
|--|-------|-------|-------|-------|-------|-------|
| 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
| 63.0% | 64.3% | 65.6% | 66.9% | 68.2% | 69.5% | 70.8% |
| 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
| 72.2% | 73.5% | 74.8% | 76.1% | 77.4% | 78.7% | 80.0% |

3. For subgroup accountability purposes, each Louisiana school that enrolls students in 9th grade or higher and offers at least a regular diploma shall have annual targets calculated by the LDE that begin with the school’s 2007 graduation rate and increase by equal increments (rounded to 1 decimal place) to reach 80.0 percent in 2022.

4. The increment each school must improve each year to maintain its progress toward the 2022 goal is the "annual improvement step."

D. Confidence intervals shall not be applied to any graduation rate considerations beginning with the 2010 accountability decisions.

E. Determining if a school or subgroup within a school has made AYP as it relates specifically to graduation rate is accomplished by answering a series of Yes/No questions. When an answer is "yes," a school or subgroup has made AYP (related to graduation rate) and no further answers are required for the specific school or subgroup.

1. Does the cohort have fewer than 40 members?
2. Has the cohort met or exceeded an 80.0 percent graduation rate?
3. Has the cohort met or exceeded the state annual target?
4. Has the cohort met or exceeded the school annual target?

5. Has the cohort met or exceeded 110 percent of the annual improvement step (defined in Paragraph C.4).

F. If at the end of the series of 5 questions a "yes" is not provided, the cohort has failed AYP.

G. A school (or subgroup) that exceeds the state's target with its 2009 graduation rate shall use the state targets as school targets. New schools shall have targets based on their second year graduation rates and the number of years remaining until 2022.

H. An LEA may request a 1 year waiver of sanctions in fall 2010 for a school that enters SI 1 because of 2 consecutive years of AYP failure due to only graduation rate if the school and all subgroups in the school have a 3 year weighted average graduation rate that exceeds the school's annual target.

1. The LEA is responsible for initiating the waiver request and providing data to the LDE.

2. If a school passes AYP the following year, the waiver is extended 1 year.

3. If after receiving a waiver the school fails AYP either of the next 2 years, the school shall be labeled SI 2 and implement sanctions for SI 1 and SI 2, if the failure is because of graduation rate.

I. In 2010 and 2011, the "whole school" graduation rate shall be evaluated using the steps delineated in this Section

J. In 2010 and 2011, any school or subgroup in the school that must use the safe harbor provisions and grad rate as an AAI will use the steps delineated in this subsection.

K. In 2012 and future years, all subgroups and the whole school shall be evaluated using the steps delineated in this subsection regardless of safe harbor considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1026 (June 2006), amended LR 33:424 (March 2007), LR 36:2243 (October 2010), LR 37:

§709. Failing the Subgroup Component

A. - B. 2. ...

3. beginning in fall 2010 using 2009 graduation data met one of the 5 criteria in §708.F, above for the whole school.

4. beginning in fall 2011 using 2010 graduation data met one of the 5 criteria in §708.F, above for the whole school and each subgroup within the school with sufficient data for a valid and reliable decision.

Note: If a school in which all subgroups have passed the subgroup component does not pass the additional academic indicator, it shall not pass the subgroup component.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:2256 (October 2004), LR 32:1026 (June 2006), LR 33:2594 (December 2007), LR 37:

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.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed changes in Bulletin 111, Chapter 7 provide detail for the subgroup portion of the Louisiana School and District Accountability system to include the additional academic indicator for schools with a 12th grade to be evaluated consistent with procedures required by the U.S. Department of Education. These proposed changes will also include the establishment of annual targets for schools and subgroups within schools, removal of "confidence intervals" as required by the U.S. Department of Education, and establishment of waiver procedures for schools entering School Improvement 1 under certain conditions.

The proposed Rule changes will result in no cost or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#053

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District—Manner of Operation of Failed Schools (LAC 28:CXLV.Chapter 7)

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 *Bulletin 129—The Recovery School District: Chapter 7. Manner of Operation of Failed Schools*. The proposed policy aligns the Recovery School District with BESE Bulletin 741, *Louisiana Handbook for School Administrators*, and outlines the fiscal and internal management of the Recovery School District. Chapter 7 outlines the manner in which the Recovery School District may operate failing schools. It provides that the Recovery School District may operate the schools as direct run schools, as Type 5 charters, or as a University Partnership School.

Title 28 EDUCATION

Part CXLV. Bulletin 129—The Recovery School District Chapter 7. Manner of Operation of Failed Schools

§701. Direct-Operation

A. BESE may authorize that a school transferred from an LEA to the RSD be operated directly by the RSD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5 (A)(1), R.S. 17:10.5(B), 17:10.7(A) (1), R.S. 17:10.7(B), and 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§703. Type 5 Charter School

A. BESE may direct that a school transferred from an LEA to the RSD be operated by a nonprofit organization holding a charter for a Type 5 charter school, under the auspices of the RSD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5 (A) (1), R.S. 17:10.5(B), R.S. 17:10.7(A)(1), R.S. 17:10.7(B)(1), R.S. 17:1990(A)(2); and R.S. 17:3973 (2)(b) (v)(aa).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§705. University Partnership School

A. BESE may direct that a school transferred from an LEA to the RSD be operated by the RSD in partnership with a University Partnership School, under the auspices of the RSD.

B. In providing for the operation of schools within its jurisdiction, at any time the RSD seeks participation by a college or university or a consortium of colleges and universities to provide for the operation of any school or group of schools, then colleges and universities that historically were established to provide education for African American students in the state shall be included in any opportunity to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.5(B), R.S. 17:10.7(A)(1), R.S. 17:10.7(B)(1)R.S. 17:1990(A)(2), and R.S. 17:1990(B)(2)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

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 or 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? Lacks sufficient information to determine.

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.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 129—The Recovery School District—Manner of Operation of Failed Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy aligns the Recovery School District (RSD) with BESE Bulletin 741, La Handbook for School Administrators and outlines the fiscal and internal management of the Recovery School District. The cost to publish and distribute the Bulletin will cost approximately \$2,000.

Chapter 7 outlines the manner in which the Recovery School District may operate failing schools. It provides that the Recovery School District may operate the schools as direct run schools, as type 5 charters, or as a University Partnership School.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy provisions will have no effects on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#052

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Assignment and Transfer of Students (LAC 28: CXV.1109)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1109. Assignment and Transfer of Students. This policy revision to Section 1109, required by Act 699 of the 2010 Regular Legislative Session, prohibits school districts from denying admission to students of suitable age residing in the geographical boundaries of the school district.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 11. Student Services

§1109. Assignment and Transfer of Students

A. - C.2. ...

D. No city, parish, or other local public school board shall deny admission or readmission to school of any student of suitable age who resides within the geographic boundaries of the school system unless such student is legally excluded from attending school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:105; R.S. 17:221.2; R.S. 17:221.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford,

State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Assignment and Transfer of Students

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy revision to Section 1109, required by Act 699 of the 2010 Regular Legislative Session, prohibits school districts from denying admission to students of suitable age residing in the geographical boundaries of the school district. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#060

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Attendance (LAC 28: CXV.1103 and 1105)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1103. Compulsory Attendance and §1105. Types of Absences. The policy revisions to Section 1103 and 1105, required by Acts 644 and 666 of the 2010 Regular Legislative Session, relate to the options for students who drop out of school, parental notification of absences, students who are employed to render artistic or creative services, and clarification of definitions of the types of absences.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

§1103. Compulsory Attendance

A. Students who have attained the age of seven years shall attend a public or private day school or participate in an

approved home study program until they reach the age of 18 years. Any child below the age of seven who legally enrolls in school shall also be subject to compulsory attendance. Refer to Chapter 33 for information on home study programs.

B. Students between the ages of 17 and 18 may withdraw from school prior to graduation with the written consent of their parents, tutors, or legal guardians. A parent, tutor, or legal guardian who has given written consent for a student under his or her control or charge to withdraw from school prior to graduation, or who has a student who is under the age of 17 and is attending or is seeking admission to a National Guard Youth Challenge Program in this state, shall not be considered to be in violation of the compulsory attendance law.

1. A student, under eighteen years of age, who withdraws from school prior to graduating from high school and who has been ruled to be a truant, pursuant to the provisions of Chapter 15 of Title VII of the Louisiana Children's Code, by a court of competent jurisdiction can be ordered by the court to exercise one of the following options within 120 days of leaving school.

a. Reenroll in school and make continual progress toward completing the requirements for high school graduation.

b. Enroll in a high school equivalency diploma program and make continual progress toward completing the requirements for earning such diploma.

c. Enlist in the Louisiana National Guard or a branch of the United States Armed Forces, with a commitment for at least two years of service, and earn a high school equivalency diploma during such service period.

2. The parent, tutor, or other person responsible for the school attendance of a student who is under age 18 and who is enrolled in school beyond his sixteenth birthday may request that the student be allowed to attend an alternative education program or a career and technical education program. In the case of a student who has no parent, tutor, or other person responsible for his school attendance, the superintendent of the LEA may act on behalf of the student in making such a request. Upon such request, the superintendent of the LEA in which the student is enrolled shall be responsible for determining whether the student remains in the regular school setting or attends an alternative education program or a career and technical education program, and for developing and implementing an individualized plan of education for such student.

3. The compulsory attendance law does not prohibit a student who is at least 16 years of age and who meets the criteria in §2703 from attending an effective adult education program approved by BESE. A parent, tutor, or other person responsible for the school attendance of a child who is at least 16 years of age but under age 18 and who is enrolled in and is fulfilling the attendance requirements of an adult education program that is approved by BESE shall be considered to be in compliance with the compulsory attendance law.

C. - E.4. ...

F. The LEA shall provide educational and related services to exceptional students in accordance with the IEP for no fewer than 177 days, or the equivalent (63,720 minutes), during the normal 182-day school cycle.

G. Elementary students shall be in attendance a minimum of 167 six hour days or 60,120 minutes a school year. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 30,060 minutes (equivalent to 83.5 six hour school days), per semester or 60,120 minutes (equivalent to 167 six hour school days) a school year for schools not operating on a semester basis.

1. To receive Carnegie credit for a course, the minimum amount of time students must be present shall be as follows:

a. 10,020 minutes for a six-period schedule;

b. 8,589 minutes for a seven-period schedule; and

c. 7,515 minutes for an eight-period or 4x4 block schedule;

d. for other schedule configurations, students must attend a minimum of 7,515 minutes.

2. Students in danger of failing due to excessive absences may be allowed to make up missed time in class sessions held outside the regular class time. The make-up sessions must be completed before the end of the current semester and all other policies must be met.

H. Each LEA shall develop and implement a system whereby the principal of a school, or his designee, shall notify the parent or legal guardian in writing upon or before a student's third unexcused absence or unexcused occurrence of being tardy, and shall hold a conference with such student's parent or legal guardian. This notification shall include information relative to the parent or legal guardian's legal responsibility to enforce the student's attendance at school and the civil penalties that may be incurred if the student is determined to be habitually absent or habitually tardy. The student's parent or legal guardian shall sign a receipt for such notification.

I. Tardy shall include but not be limited to leaving or checking out of school unexcused prior to the regularly scheduled dismissal time at the end of the school day but shall not include reporting late to class when transferring from one class to another during the school day.

J. Exceptions to the attendance regulation shall be the enumerated extenuating circumstances below that are verified by the Supervisor of Child Welfare and Attendance or the school principal/designee where indicated. These exempted absences do not apply in determining whether a student meets the minimum minutes of instruction required to receive credit:

1. extended personal physical or emotional illness as verified by a physician or nurse practitioner licensed in the state;

2. extended hospital stay in which a student is absent as verified by a physician or dentist;

3. extended recuperation from an accident in which a student is absent as verified by a physician, dentist, or nurse practitioner licensed in the state;

4. extended contagious disease within a family in which a student is absent as verified by a physician or dentist licensed in the state; or

5. observance of special and recognized holidays of the student's own faith;

6. visitation with a parent who is a member of the United States Armed Forces or the National Guard of a state and such parent has been called to duty for or is on leave

from overseas deployment to a combat zone or combat support posting. Excused absences in this situation shall not exceed five school days per school year;

7. absences verified and approved by the school principal or designee as stated below:

a. prior school system-approved travel for education;

b. death in the immediate family (not to exceed one week); or

c. natural catastrophe and/or disaster.

K. For any other extenuating circumstances, the student's parents or legal guardian must make a formal appeal in accordance with the due process procedures established by the LEA.

L. Students who are verified as meeting extenuating circumstances, and therefore eligible to receive grades, shall not receive those grades if they are unable to complete makeup work or pass the course.

M. Students participating in school-approved field trips or other instructional activities that necessitate their being away from school shall be considered to be present and shall be given the opportunity to make up work.

N. If a student is absent from school for two or more days within a 30-day period under a contract or employment arrangement to render artistic or creative services for compensation as set forth in the Child Performer Trust Act (R.S. 51:2131, et seq.) the employer shall employ a certified teacher, beginning on the second day of employment, to provide a minimum of three education instruction hours per day to the student pursuant to the lesson plans for the particular student as provided by the principal and teachers at the student's school. There must be a teacher to student ratio of one teacher for every 10 students.

Note: Refer to §1117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112; R.S. 17:221.3-4; R.S. 17:226.1; R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:

§1105. Types of Absences

A. The days absent for elementary and secondary school students shall include non-exempted, excused; exempted, excused, unexcused absences and suspensions.

B. Non-exempted, excused absences are absences incurred due to personal illness or serious illness in the family (documented by acceptable excuses, including a parental note) which are not considered for purposes of truancy, but which are considered when determining whether or not a student is eligible to make up work and tests, receive credit for work completed, and receive credit for a course and/or school year completed.

C. *Exempted, Excused Absences*—absences which are not considered for purposes of truancy and which are not considered when determining whether or not a student is eligible to make up work and tests, receive credit for work completed, and receive credit for a course and/or school year completed.

D. *Unexcused Absence*—any absence not meeting the requirements set forth in the excused absence and extenuating circumstances definitions, including but not limited to absences due to any job (including agriculture and domestic services, even in their own homes or for their own parents or tutors) unless it is part of an approved instructional program. Students shall be given failing grades in those days missed and shall not be given an opportunity to make up work.

E. *Suspension*—a non-exempted absence in which a student is allowed to make up his work and is eligible for consideration for credit provided it is completed satisfactorily and in a timely manner. The absence is considered when determining whether or not a student may or may not be promoted, but is not considered for purposes of truancy. Students absent from school as a result of any suspension shall be counted as absent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 17:226; R.S. 17:235.2; R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 36:482 (March 2010), LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Attendance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These policy revisions to Section 1303, required by Acts 644 and 666 of the 2010 Regular Legislative Session, relate to

the options for students who drop out of school, parental notification of absences, students who are employed to render artistic or creative services, and clarification of definitions of the types of absences. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#059

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Building and Maintenance (LAC 28:CXV.1501)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1501. Building and Maintenance. This policy revision, required by Act 413 of the 2009 Regular Legislative Session, requires school districts to adopt and implement policies for the inspection of fire safety and prevention equipment and establishes minimum requirements for the policies.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 15. Plant Operations and Maintenance

§1501. Building and Maintenance

A. - F.3. ...

G. Each LEA shall adopt and implement policies providing for inspections by qualified persons of all fire safety and prevention equipment, including fire alarm and smoke detection devices, at least twice during each school year and to require that all necessary actions be taken in a timely manner to assure that all such equipment is in good working order and meets the need for which it is intended.

1. The policy, at a minimum, shall provide that:

a. any employee who performs an inspection shall have received appropriate training;

b. documentation of the employee's training shall be included in his/her personnel file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.5; R.S. 17:81; R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1285 (June 2005), amended LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Building and Maintenance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy revision, required by Act 413 of the 2009 Regular Legislative Session, requires school districts to adopt and implement policies for the inspection of fire safety and prevention equipment and establishes minimum requirements for the policies. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#065

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28: CXV.2318, 2319, and 2363)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2318. The College and Career Diploma, §2319. The Career Diploma, and §2363. Social Studies. These policy revisions, required by Act 327 of the 2010 Regular Legislative Session, require all students who enter the ninth grade on or after July 1, 2011 to complete one unit of credit in Civics, which shall include a section on Free Enterprise. Also, entering ninth graders in 2011-2012 will no longer be required to complete 1/2 credit of Free Enterprise. Students who enter the ninth grade prior to 2011 shall be allowed to complete one credit of Civics or 1/2 credit of Civics and 1/2 credit of Free Enterprise.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction
§2318. The College and Career Diploma**

A. - B.2.c. ...

3. Remediation and retake opportunities will be provided for students that do not pass the GEE or, LAA 2, or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass on the GEE or LAA 2. Students shall be offered 30 hours of remediation each year in each EOC test they do not pass. Refer to Bulletin 1566—*Guidelines for Pupil Progression*., and the addendum to Bulletin 1566—*Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, Regular School Year*.

4. - 5.a. ...

C. Minimum Course Requirements

1. For incoming freshmen prior to 2008-2009, the minimum course requirements for graduation shall be the following.

| | |
|---|----------------|
| English | 4 units |
| Shall be English I, II, and III, and English IV or Business English or Senior Applications in English. | |
| Mathematics | 3 units |
| (Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following: Algebra I (1 unit); or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or Integrated Mathematics I (1 unit). The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics. (Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated | |

| | |
|---|--------------------|
| Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics. | |
| Science | 3 units |
| Shall be the following: 1 unit of Biology; 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I; 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective; Students may not take both Integrated Science and Physical Science; Agriscience I is a prerequisite for Agriscience II and is an elective course. | |
| Social Studies | 3 units |
| Shall be American History, 1/2 unit of Civics or AP American Government; and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History. | |
| Health Education | 1/2 unit |
| Physical Education | 1 1/2 units |
| Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible. | |
| Electives | 8 units |
| TOTAL | 23 units |

2. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana basic core curriculum, the minimum course requirements for graduation shall be the following.

| | |
|---|----------------|
| English | 4 units |
| Shall be English I, II, and III, and English IV or Senior Applications in English | |
| Mathematics | 4 units |
| Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) Geometry or Applied Geometry The remaining unit(s) shall come from the following: Algebra II, Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally initiated elective approved by BESE as a math substitute. | |
| Science | 3 units |
| Shall be the following: 1 unit of Biology; 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I; 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, an additional course from the physical science cluster, or a locally initiated elective approved by BESE as a science substitute. • Students may not take both Integrated Science and Physical Science • Agriscience I is a prerequisite for Agriscience II and is an elective course. | |
| Social Studies | 3 units |
| Shall be the following: 1 unit of American History; 1/2 unit of Civics or AP American Government; and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise*; 1 unit from the following: World History, World Geography, Western Civilization, or AP European History. *Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise. | |

| | |
|--|--------------------|
| Health Education | 1/2 unit |
| JROTC I and II may be used to meet the Health Education requirement. Refer to §2347. | |
| Physical Education | 1 1/2 units |
| Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible. | |
| Education for Careers or Journey to Careers* | 1 unit |
| Electives | 7 units |
| Shall include the minimum courses required to complete a Career Area of Concentration* | |
| TOTAL | 24 units |
| *Take effect for incoming freshmen in 2010-2011 and beyond | |

3. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following.

| | |
|--|----------------|
| English | 4 units |
| Shall be English I, II, III, and English IV | |
| Mathematics | 4 units |
| Algebra I, Applied Algebra I, or Algebra I-Pt. 2 Geometry or Applied Geometry Algebra II The remaining unit shall come from the following: Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute. | |
| Science | 4 units |
| Shall be the following: 1 unit of Biology; 1 unit of Chemistry; 2 units from the following courses: Physical Science, Integrated Science, Physics I, Physics of Technology I, Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, or a locally initiated elective approved by BESE as a science substitute. | |
| <ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. | |
| A student completing a Career Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required science unit: | |
| <ul style="list-style-type: none"> Advanced Nutrition and Foods; Food Services II; Allied Health Services II; Dental Assistant II; Emergency Medical Technician-Basic (EMT-B); Health Science II; Medical Assistant II; Sports Medicine III; Advanced Electricity/Electronics; Process Technician II; ABC Electrical II; Computer Service Technology II; Horticulture II; Networking Basics; Routers and Routing Basics; Switching Basics and Intermediate Routing; WAN Technologies; Animal Science; Biotechnology in Agriscience; Environmental Studies in Agriscience; Equine Science; Forestry; Horticulture; Small Animal Care/Management; Veterinary Assistant; Oracle Academy Course: DB Programming with PL/SQL. | |

| | |
|---|--------------------|
| Social Studies | 4 units |
| Shall be the following: 1/2 unit of Civics or AP American Government; and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise; * | |
| <ul style="list-style-type: none"> 1 unit of American History; 1 unit from the following: World History, World Geography, Western Civilization, or AP European History; 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Law Studies, Psychology, Sociology, Civics (second semester—1/2 credit) or African American Studies. | |
| NOTE: Students may take two half credit courses for the fourth required social studies unit. | |
| A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required social studies unit: | |
| <ul style="list-style-type: none"> Advanced Child Development; Early Childhood Education II; Family and Consumer Sciences II; ProStart II; T & I Cooperative Education (TICE); Cooperative Agriculture Education; Administrative Support Occupations; Business Communication; Cooperative Office Education; Entrepreneurship – Business; Lodging Management II; Advertising and Sales Promotion; Cooperative Marketing Education I; Entrepreneurship – Marketing; Marketing Management; Marketing Research; Principles of Marketing II; Retail Marketing; Tourism Marketing; CTE Internship; General Cooperative Education II; STAR II. | |
| *Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise. | |
| Health Education | 1/2 unit |
| JROTC I and II may be used to meet the Health Education requirement. Refer to §2347. | |
| Physical Education | 1 1/2 units |
| Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible. | |
| Foreign Language | 2 units |
| Shall be 2 units in the same foreign language or 2 Speech courses | |
| Arts | 1 unit |
| 1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts. A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's area of concentration for the required applied arts unit: | |
| <ul style="list-style-type: none"> Advanced Clothing and Textiles; ABC Carpentry II TE; ABC Electrical II TE; ABC Welding Technology II; Advanced Metal Technology; Advanced Technical Drafting; Architectural Drafting; ABC Carpentry II - T&I; ABC Welding Technology II - T&I; Cabinetmaking II; Commercial Art II; Cosmetology II; Culinary Occupations II; Custom Sewing II; Graphic Arts II; Photography II; | |

| | |
|---|-----------------|
| Television Production II; Upholstery II; Welding II; ABC Carpentry In Agriscience; ABC Electricity in Agriscience; ABC Welding Technology Agriscience; Agriscience Construction Technology; Agriscience Power Equipment; Floristry; Landscape Design and Construction; Introduction to Business Computer Applications; Accounting II; Business Computer Applications; Computer Multimedia Presentations; Desktop Publishing; Keyboarding Applications; Telecommunications; Web Design I and II; Word Processing; Digital Media II. | |
| Electives | 3 units |
| TOTAL | 24 units |

4. - 6.a.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2-3; R.S. 17:274; R.S. 17:274.1; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:

§2319. The Career Diploma

A. - B.2.c. ...

3. Remediation and retake opportunities will be provided for students who do not pass the GEE or, LAA 2 tests, or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass on the GEE or LAA 2. Students shall be offered 30 hours of remediation each year in each EOC test they do not pass. Refer to *Bulletin 1566—Guidelines for Pupil Progression.5*

C. Minimum Course Requirements

1. The minimum course requirements for a career diploma shall be the following.

| | |
|---|----------------|
| English | 4 units |
| Shall be: English I; English II; The remaining unit shall come from the following Technical Reading and Writing; Business English; Business Communications; Using Research in Careers (1/2 credit); American Literature (1/2 credit); Film in America (1/2 credit); English III; English IV; Senior Applications in English; a course developed by the LEA and approved by BESE. | |

| | |
|--|-----------------|
| Mathematics | 4 units |
| Shall be One of the following: Algebra I (1 unit); or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or Applied Algebra I (1 unit). The remaining units shall come from the following: Geometry or Applied Geometry; Technical Math; Medical Math; Applications in Statistics and Probability; Financial Math; Math Essentials; Algebra II; Advanced Math—Pre-Calculus; Discrete Mathematics; course(s) developed by the LEA and approved by BESE. | |
| Science | 3 units |
| Shall be: Biology I; 1 unit from the following physical science cluster: Physical Science; Integrated Science; Chemistry I; ChemCom; Physics I; Physics of Technology I. The remaining unit shall come from the following: Food Science; Forensic Science; Allied Health Science; Basic Body Structure and Function; Basic Physics with Applications; Aerospace Science; Earth Science; Agriscience II; Physics of Technology II; Environmental Science; Anatomy and Physiology; Animal Science; Biotechnology in Agriculture; Environmental Studies in Agriculture; Health Science II; EMT—Basic; an additional course from the physical science cluster; course(s) developed by the LEA and approved by BESE. NOTE: Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. | |
| Social Studies | 3 units |
| Shall be: American History; 1/2 unit of Civics or AP American Government; and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise;* The remaining unit shall come from the following: Child Psychology and Parenthood Education; Law Studies; Psychology; Sociology; World History; World Geography; Western Civilization; Economics; American Government; African American Studies; course developed by the LEA and approved by BESE. *Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise. | |
| Health Education | 1/2 unit |
| JROTC I and II may be used to meet the Health Education requirement. Refer to §2347. | |

| | |
|--|--------------------|
| Physical Education | 1 1/2 units |
| Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible. | |
| Career/Technical Education | 7 units |
| Education for Careers or Journey to Careers Six credits required for a career Area of Concentration. | |
| TOTAL | 23 units |

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.2; R.S. 17:183.3; R.S. 17:274; R.S. 17:274.1; R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:240 (February 2006), amended LR 37:

§2363. Social Studies

A. Social Studies Requirements for the College and Career Diploma

1. Louisiana Core 4 Curriculum. Four units of social studies are required. They shall be American History, 1/2 unit of Civics or AP American Government, and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise; one of the following: World History, World Geography, Western Civilization, or AP European History; and one additional social studies course.

a. Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

b. A student completing a Career Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required social studies unit:

- i. Advanced Child Development;
- ii. Early Childhood Education II;
- iii. Family and Consumer Sciences II;
- iv. ProStart II;
- v. T and I Cooperative Education (TICE);
- vi. Cooperative Agriculture Education;
- vii. Administrative Support Occupations;
- viii. Business Communication, Cooperative Office Education;
- ix. Entrepreneurship—Business;
- x. Lodging Management II;
- xi. Advertising and Sales Promotion;
- xii. Cooperative Marketing Education I;
- xiii. Entrepreneurship – Marketing;
- xiv. Marketing Management;
- xv. Marketing Research;
- xvi. Principles of Marketing II;
- xvii. Retail Marketing;
- xviii. Tourism Marketing;
- xix. CTE Internship;
- xx. General Cooperative Education II; and
- xxi. STAR II.

2. Louisiana Basic Core Curriculum. For students completing the basic core curriculum and for incoming freshmen prior to 2008-2009, three units of social studies shall be required for graduation. They shall be American History, 1/2 unit of Civics or AP American Government, and 1/2 unit of Free Enterprise or 1 unit of Civics including a

section on Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History.

a. Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

3. The social studies course offerings for the college and career diploma shall be as follows.

| Course Title(s) | Units |
|---|--------|
| American Government | 1 |
| American History | 1 |
| Civics | 1 |
| Economics | 1 |
| Free Enterprise | 1/2 |
| Law Studies | 1 |
| Psychology | 1 |
| Sociology | 1 |
| AP European History | 1 |
| African American Studies | 1 |
| Approve IBC-related courses for those students who meet the requirement | 1 each |

B. Social Studies Requirements for the Career Diploma

1. For students completing the Career Diploma, three units of social studies shall be required for graduation. They shall be American History, 1/2 unit of Civics; and 1/2 unit of Free Enterprise or 1 unit of Civics including a section on Free Enterprise; and one additional social studies course.

a. Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

2. The social studies course offerings for the career diploma shall be as follows.

| Course Title(s) | Units |
|---|-------|
| American Government | 1 |
| American History | 1 |
| Civics | 1 |
| Economics | 1 |
| Free Enterprise | 1/2 |
| Law Studies | 1 |
| Psychology | 1 |
| Sociology | 1 |
| African American Studies | 1 |
| Child Psychology and Parenthood Education | 1 |
| Course(s) developed by the LEA and approved by BESE | 1 |

C. Economics may be taught by a teacher certified in business education.

D. Free Enterprise and the 1 credit Civics course shall include instruction in personal finance. Such instruction shall include but shall not be limited to the following components:

- 1. income;
- 2. money management;
- 3. spending and credit;
- 4. savings and investing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.3; R.S. 17:274; R.S. 17:274.1; R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), LR 33:431 (March 2007), LR 33:2606 (December 2007), LR 36:1495 (July 2010), LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
These policy revisions, required by Act 327 of the 2010 Regular Legislative Session, requires all students who enter the ninth grade on or after July 1, 2011 to complete one unit of credit in Civics which shall include a section on Free Enterprise. Also, entering ninth graders in 2011-2012 will no longer be required to complete 1/2 credit of Free Enterprise. Students who enter the ninth grade prior to 2011 shall be allowed to complete one credit of Civics or 1/2 credit of Civics and 1/2 credit of Free Enterprise. Also, the revisions include the requirement for the number of hours of remediation provided to students who fail the End-of-Course (EOC) Tests. Since the Louisiana Department of Education is already planning to revise social studies standards and curriculum, these changes will not result in an increase in costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will 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)
There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#069

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Disciplinary Regulations
(LAC 28: CXV.1301)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §1301. Disciplinary Regulations*. This policy revision to Section 1301, required by Act 755 of the 2010 Regular Legislative Session, requires school districts to adopt a student code of conduct and to include in the code of conduct rules related to cyberbullying.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 13. Discipline §1301. Disciplinary Regulations

A. - J. ...

K. Each LEA shall adopt a student code of conduct for the students in its school system.

1. Such code of conduct shall be in compliance with all existing rules, regulations, and policies of the board and of BESE and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

2. Except for the parishes of Livingston, East Baton Rouge, East Feliciana, West Feliciana, St. Helena, and Tangipahoa, each LEA shall adopt and incorporate into the student code of conduct a policy prohibiting the harassment, intimidation, and bullying of a student by another student, including any intentional gesture or written, verbal, or physical act that:

a. a reasonable person under the circumstances should know will have the effect of harming a student or damaging his property or placing a student in reasonable fear of harm to his life or person or damage to his property; and

b. is so severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for a student.

3. Any student, school employee, or school volunteer who in good faith reports an incident of harassment, intimidation, or bullying to the appropriate school official in accordance with the procedures established by local board policy shall be immune from a right of action for damages arising from any failure to remedy the reported incident.

4. Cyberbullying

a. The governing authority of each public elementary and secondary school to conduct (by not later than Jan. 1, 2011) shall review the student code of conduct mandated by present law and amend such code as may be necessary to assure that the policy prohibiting the harassment, intimidation, and bullying of a student by another student specifically addresses the nature, extent, causes, and consequences of cyberbullying.

b. The term "cyberbullying" means harassment, intimidation, or bullying of a student on school property by another student using a computer, mobile phone, or other interactive or digital technology, or harassment, intimidation, or bullying of a student while off school property by another student using any such means when the action or actions are intended to have an effect on the student when the student is on school property.

c. Beginning on Jan. 1, 2011, and continuing thereafter, the governing authority of each public elementary and secondary school shall inform each student in writing within 10 days after enrolling in school of the prohibition against harassment, intimidation, and bullying, including cyberbullying, of a student by another student; the nature and consequences of such actions; and the process and procedures for reporting an incident involving the prohibited actions.

d. Each such governing authority, by not later than Jan. 1, 2011, must adopt a policy establishing procedures for the investigation of reports involving the prohibited actions.

e. Each public elementary and secondary school governing authority must use the DOE behavior incidence checklist to document the details of each reported incident or harassment, intimidation, and bullying, including cyberbullying.

f. Each school governing authority shall report all such documented incidents to the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224; R.S. 17:416; 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:1225 (June 2010), LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Disciplinary Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy revision to Section 1301, required by Act 755 of the 2010 Regular Legislative Session, requires school districts to adopt a student code of conduct and to include in the code of conduct rules related to cyberbullying. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#063

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Discipline
(LAC 28: CXV.1301 and 1302)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1301. Disciplinary Regulations and §1302. Disruptive Behavior. These policy revisions, required by Act 240 of the 2009 Regular Legislative Session, describe the types of behavior for which a teacher may call for the removal of students from the classroom and they prescribe requirements for parental notification and involvement.

Title 28
EDUCATION

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 13. Discipline

§1301. Disciplinary Regulations

A. Each local educational governing authority shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, or on the street or road while going to and from school, or during intermission and recess.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.

B. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224; R.S. 17:252; R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 37:

§1302. Disruptive Behavior

A. A teacher may have a student immediately removed from his/her classroom and placed in the custody of the principal or his/her designee:

1. when the students behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well being of any student or teacher;

2. when a student exhibits disrespectful behavior toward the teacher such as using foul or abusive language or gestures directed at or threatening a student or a teacher,

3. when a student violates the school's code of conduct;

4. or, when a student exhibits other disruptive, dangerous, or unruly behavior, including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, throwing objects, inciting other students to misbehave, or destroying property.

B. The principal or his designee shall advise the student of the particular misconduct of which he/she is accused and the student shall be given an opportunity to explain his version of the facts.

C. The principal or his/her designee then shall conduct a counseling session with the student as may be appropriate to establish a course of action to identify and correct the behavior.

D. The principal or his designee shall provide oral or written notification to the parent or legal guardian of any student removed from the classroom. Such notification shall include a description of any disciplinary action taken.

E. The principal or his/her designee may provide oral or written feedback to the teachers initiating the removal of students from the classroom. The principal and his/her designee may also provide to such teachers guidance and support on practicing effective classroom management, including, but not limited to positive behavior supports.

F. Each LEA may adopt a policy that requires the parent or guardian of a student removed from the classroom for disruptive behavior to attend after school or Saturday intervention sessions with the student.

1. The LEA may refer a parent who fails to attend such session to the court of competent jurisdiction.

2. Each time a parent is referred to the court of competent jurisdiction, the court may impose a fine of not less than \$25 and not more than \$250, 40 hours of court-approved school or community service activities, or a combination of 40 hours of court-approved school or community service activities an attendance at a court-approved family counseling program by both a parent or legal guardian and the student, and may suspend any recreational license issued by the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Discipline**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These policy revisions, required by Act 240 of the 2009 Regular Legislative Session, describe the types of behavior for which a teacher may call for the removal of students from the classroom and they prescribe requirements for parental notification and involvement. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#064

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Electronic Telecommunication Devices (LAC 28: CXV.1141)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1141. Electronic Telecommunication Devices. This policy revision, required by Act 214 of the 2009 Regular Legislative Session, requires local school systems to adopt and implement policies applicable to school system employees relative to electronic communication by an employee at the school to a student enrolled at the school.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

§1141. Electronic Telecommunication Devices

A. - B. ...

C. Each LEA shall develop, adopt, and implement policies, procedures and practices applicable to school employees relative to electronic communications by an employee at a school to a student enrolled at that school.

1. The policies, procedures, and practices shall:

a. define electronic communication and recognize the multiple means available for making such a communication, including specified forms of both direct communication and indirect communication;

b. require that all electronic communication by an employee to a student relative to the educational services provided use a means of communication provided by the LEA;

c. prohibit the use of the means of provided by the LEA to electronically communicate with a student that is not related to the education services provided, except communication with an immediate family member if such communication is specifically authorized by the LEA;

d. specify that the occurrence of any electronic communication made by an employee to a student, or vice versa, using a means other than one provided by the LEA shall be reported by the employee:

i. provides that records of any such reported communication be maintained by the LEA for one year;

e. specify that it is a duty of LEA employees to comply with the policies and provide that a failure to comply

may result in disciplinary action and may constitute willful neglect of duty;

f. establish and provide for the imposition of consequences for a violation of the policies, including but not limited to termination of employment;

g. provide a means for the timely reporting and investigation of an alleged failure to comply with policies and for concluding such an investigation and resolving the allegation;

h. provide a means whereby any alleged failure to comply with the policies that also may be a violation of state or federal law is reported to the proper authorities;

i. provide a means to assure that all LEA employees are informed fully of the policies, procedures, and practices, and the possible consequences for a failure to comply;

j. provide a means to assure that a parent or guardian is fully informed of the policies, procedures, and practices;

k. provide a means for a parent or guardian to request that the child not be contacted through electronic communication by any school employee unless the purpose of such communication is directly related to the child's educational services and is sent and received by more than one student at the school.

2. No school board or board member shall be civilly liable for any electronic communication that is prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81; R.S. 17:239.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook
for School Administrators—Electronic
Telecommunication Devices**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This policy revision, required by Act 214 of the 2009 Regular Legislative Session, requires local school systems to adopt and implement policies applicable to school system employees relative to electronic communication by an employee at the school to a student enrolled at the school. These changes will not result in an increase in costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will 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)**

There will be no costs or economic benefits to schools or school districts.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#061

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Elementary Program of Studies
(LAC 28:CV.2313 and 2347)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2313. Elementary Program of Studies and §2347. Health Education. These policy revisions, required by Act 321 of the 2010 Regular Legislative Session, require public schools to provide grade appropriate instruction relative to dating violence in select health classes.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

§2313. Elementary Program of Studies

A. - F.7.a. ...

8. Schools shall provide grade appropriate instruction relative to dating violence to students in seventh and eighth grade health classes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17.1; R.S. 17: 24.8; R.S. 17:81; R.S. 17:154-154.1; R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005),

amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:

§2347. Health Education

A. - E.2. ...

3. JROTC I and JROTC II shall include instruction in CPR, adoption awareness, the safe haven relinquishments law, and content relative to dating violence as required by state law.

F. Health Education shall include instruction relative to dating violence. Such instruction shall include but need not be limited to providing students with the following information:

1. the definition of “dating violence”;
2. dating violence warning signs;
3. characteristics of healthy relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:817 (May 2007), LR 36:1493 (July 2010), LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Elementary Program of Studies**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

These policy revisions, required by Act 321 of the 2010 Regular Legislative Session, requires public schools to provide grade appropriate instruction relative to dating violence in select Health classes. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#067

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Eligibility to Participate in High School Interscholastic Athletics (LAC 28: CXV.3319)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §3319. Eligibility to Participate in High School Interscholastic Athletics. This policy revision to Section 3319, required by Act 691 of the 2010 Regular Legislative Session, provides for the eligibility of home study students to participate in interscholastic sports at the secondary level.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 33. Home Study Programs

§3319. Eligibility to Participate in High School Interscholastic Athletics

A. A student participating in a BESE approved home study program will be eligible to participate in interscholastic athletic activities at a high school that is a member of the Louisiana High School Athletic Association (LHSAA) as follows.

1. Such student shall be subject to the same residency or attendance zone requirements as other students participating in the athletic activity.

2. The student's parent or legal guardian shall make a written request, not later than the first 11 days of the school year, for the student to participate in interscholastic athletic activities to the principal of the school providing the activity.

3. The principal of the school providing the athletic activity shall approve or disapprove such written request within 30 days after receipt by the principal of all information and documentation requested by the principal (which shall be limited to information and documentation that is required of other students relative to participation in the athletic activity) from the student or the student's parent or legal guardian, or both.

4. A decision by the principal to approve or disapprove the written request for the student to participate shall be final.

5. No person, individually or on behalf of any other person, shall have a cause of action arising from a denial by a public school principal of participation by a home study student in interscholastic athletics at the school or, if the student is allowed by the principal to participate in accordance with proposed law, from any refusal or denial of further participation by the student in interscholastic athletics at the school.

6. After a decision is made by the principal to approve a request for the student to participate, the student then shall participate in any tryouts for such activity at the same time and in the same manner as other students who want to participate in the same activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176(G) and 17:236.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Eligibility to Participate in High School Interscholastic Athletics

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy revision to Section 3319, required by Act 691 of the 2010 Regular Legislative Session, provides for the eligibility of home study students to participate in

interscholastic sports at the secondary level. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#071

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—General Powers of Local Educational Governing Authorities (LAC 28: CXV.303)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §303. General Powers of Local Educational Governing Authorities. This policy revision to Section 303, required by Acts 552, 705, and 720 of the 2010 Regular Legislative Session, relates to the requirements for school board members to obtain continuing education, to the employment of the local public school superintendent, and to the authority of the superintendent and the school board for personnel matters.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§303. General Powers of Local Educational Governing Authorities

A. Each city and parish school board shall determine the number and location of schools to be opened, and the number and selection of teachers and other certified personnel from recommendations made by the local superintendent.

B. Each city, parish, and other local school board is authorized to adopt rules and regulations for its own governance that are consistent with law and with the regulations of BESE.

1. Each member of a city and parish school board shall receive a minimum of six hours of training and instruction annually in the school laws of this state, in the laws governing the school boards, and in educational trends, research, and policy. Such training shall also include education policy issues, including but not limited to the minimum foundation program and formula, literacy and numeracy, leadership development, dropout prevention, career and technical education, redesigning high schools,

early childhood education, school discipline, and harassment, intimidation, and bullying. Training shall also include instruction in Louisiana Open Meeting Laws and the Louisiana Public Bid Law. In an LEA that has one or more schools identified as an academically unacceptable school or a school in need of academic assistance as defined by BESE, at least two of the required hours shall focus on the improvement of schools identified as failing schools as defined by BESE.

2. The training may be received from a postsecondary education institution, the DOE, or the local school board central office staff, the Louisiana School Board Association (LSBA) provided that the instruction and the method for demonstrating attendance are pre-approved by the Louisiana School Board Association or at any conference presented by the National School Boards Association or by the Council of the Great City Schools, provided that verification of attendance by the school board member at the training is obtained.

3. Each school board member's attendance shall be reported by the instructor to the Louisiana School Board Association. Each school board member who completes required instruction shall receive a certificate of completion and a copy of such certificate shall be entered into the minutes of the school board on which the member serves.

4. The superintendent of the school system on which the school board member serves shall be responsible for verifying that any training or instruction received by the school board member as set forth in this Section meets the necessary requirements.

5. Distinguished School Board Member

a. A school board member who has received a certificate of completion for the initial 16 hours of training and instruction and has also received an annual certificate of completion of the required training for three subsequent consecutive years shall receive the designation of "Distinguished School Board Member."

b. DOE will issue each such member an appropriate certificate attesting to such designation.

c. A member in office on Jan. 1, 2011, who has prior service on the board may receive the designation if he completes 16 hours of training during 2011 and completes the required training for the subsequent three consecutive years.

d. At least annually, the school system superintendent shall transmit to the newspaper which is the official journal of the school board a press release detailing the information for his school board that is posted on the LSBA website relative to training hours and subject matter completed by each school board member and to include in such press release information concerning each member who has been designated a "Distinguished School Board Member."

C. - L. ...

M. No board member shall act in an individual capacity to use the authority of his office or position as a member of the school board in a manner intended to interfere with, compel, or coerce any personnel decision including the hiring, promotion, discipline, demotion, transfer, discharge, or assignment of work to any school employee.

N. No board member shall use the authority of his office or position as a member of the school board in a manner

intended to interfere with, compel, or coerce any school employee to make any decision concerning benefits, work assignment, or membership in any organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:53; R.S. 17:54; R.S. 17:81; 17:81.2; 17:81.4-8; R.S. 17:100.2; R.S. 17:104; R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005), amended LR 35:1474 (August 2009), LR 35:1876 (September 2009), LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—General Powers of Local Educational Governing Authorities

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy revision to §303, required by Acts 552, 705, and 720 of the 2010 Regular Legislative Session, relate to the requirements for school board members to obtain continuing education, to the employment of the local public school superintendent, and to the authority of the superintendent and the school board for personnel matters. These changes will not result in an increase in costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#054

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—High Schools (LAC 28: CXV.2317)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §2317. High Schools*. These policy revisions, required by Act 660 of the 2010 Regular Legislative Session, require districts to develop a policy whereby students shall be allowed to accelerate their academic progress, complete all high school graduation requirements established by BESE, and receive a high school diploma in less than four years. Students who enter the ninth grade prior to 2011 shall be allowed to complete one credit of Civics or 1/2 credit of Civics and 1/2 credit of Free Enterprise.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

§2317. High Schools

A. - D. ...

E. A Louisiana state high school diploma cannot be denied to a student who meets the state minimum high school graduation requirements; however, in those instances in which BESE authorizes an LEA to impose more stringent academic requirements, a school system diploma may be denied.

F. Each LEA shall develop an early graduation program allowing students to accelerate their academic progress, complete all state graduation requirements, and receive a high school diploma in less than four years.

1. The early graduation program may include distance education (§2395), dual enrollment (§2327), and Carnegie credit earned in middle school (§2321).

2. LEAs shall not have any policies or requirements that would prevent students from graduating in less than four years.

G. Each school shall follow established procedures for special requirements for high school graduation to allow each to address individual differences of all students.

H. Prior to the beginning of the school year, students in the career diploma pathway may switch to the college and

career diploma pathway provided they have the consent of their parent or guardian and meet one of the following requirements.

1. The student has met all the requirements for promotion to the ninth grade established by BESE and the LEA for the college and career diploma program.

2. If the student was promoted to the career diploma program without having passed the English language arts or mathematics component of the eighth grade LEAP test, then the student must meet one of the requirements below.

3. If the student scored *Unsatisfactory* on the English language arts component eighth grade LEAP test, the student must successfully pass the eighth grade LEAP placement test for English language arts or the English II end-of-course test.

4. If the student scored *Unsatisfactory* on the mathematics component eighth grade LEAP test, the student must successfully pass the eighth grade LEAP Placement test for math or the Algebra I end-of-course Test.

H. Prior to the beginning of the school year, students in the college and career diploma pathway may switch to the career diploma pathway provided they meet the following requirement.

1. Every student who seeks to pursue a career diploma shall have the written permission of his/her parent or other legal guardian on the career diploma participation form after a consultation with the school guidance counselor or other school administrator. The student and parent must be informed of the advantages and disadvantages of the different diploma pathways. The signature of the student and parent or guardian indicates that a determination has been made that the pursuit of a career diploma is appropriate and in the best interest of the student. The school principal shall also sign the form acknowledging that appropriate counseling has taken place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:154; R.S. 17:1944; R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—High Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These policy revisions, required by Act 660 of the 2010 Regular Legislative Session, requires districts to develop a policy whereby students shall be allowed to accelerate their academic progress, complete all high school graduation requirements established by BESE, and receive a high school diploma in less than four years. These changes may result in relief to the MFP if students graduate early, but there is no way to estimate the amount.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#068

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Home Study Program
(LAC 28: CXV.3309 and 3311)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §3309. Curriculum and §3311. Testing. The policy revision to Section 3309, required by Act 677 of the 2010 Regular Legislative Session, provides that a high school diploma awarded by an approved home study program shall be recognized by educational institutions and governmental entities in the same manner as one awarded by an approved nonpublic school. The changes to Section 3311 are required by changes to the state testing programs and policies.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 33. Home Study Programs

§3309. Curriculum

A. - B. ...

C. A high school diploma awarded by a home study program approved by BESE shall be deemed by all public postsecondary education institutions, all state departments, agencies, boards, and commissions, and all other state and local governmental entities to have all the rights and privileges afforded to a high school diploma awarded by a state-approved nonpublic school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 37:

§3311. Testing

A. A parent of a child in home study may request of the LEA superintendent or the state superintendent, that the child be administered the LEAP, iLEAP, or GEE tests under the following conditions:

1. date of the test shall be on such dates as determined by the LEA superintendents or state superintendent;
2. a fee of up to \$35 may be charged to cover actual costs of administering, scoring, and reporting the results of the tests;
3. the examination shall be administered with the same instructions and under similar conditions as provided to students enrolled in public schools;
4. a certified teacher shall administer the test;
5. the parent shall be provided the student's score and whether the student passed the examination by meeting the state performance standard for LEAP.

B. Students enrolled in state-approved home study programs are not eligible to participate in LAA 1, LAA 2, ELDA, or EOC tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Home Study Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy revision to Section 3309, required by Act 677 of the 2010 Regular Legislative Session, provides that a high school diploma awarded by an approved home study program shall be recognized by educational institutions and governmental entities in the same manner as one awarded by an approved nonpublic school. The changes to Section 3311 are required by changes to the state testing programs and policies. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#070

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Physical Abuse of Teachers and School
Employees by Students (LAC 28: CXV.521)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §521. Physical Abuse of Teachers and School Employees by Students. This policy revision to Section 521, required by Act 404 of the 2010 Regular Legislative Session, requires districts to adopt rules and regulations regarding the physical abuse of public

school employees by students, and includes some requirements for the rules and regulations.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§521. Physical Abuse of Teachers and School Employees by Students

A. LEAs shall adopt rules and regulations to implement the following requirements regarding the physical abuse of public school teachers and other school employees by students.

1. An accurate record shall be kept of incidents of such abuse.

2. LEAs shall provide appropriate equipment to protect teachers and other school employees from such abuse.

3. Support services shall be provided to teachers and other school employees which afford them the opportunity to discuss the stress caused by such abuse.

4. Any teacher or other school employee who has been the victim of such abuse shall be provided the opportunity to seek another position for which he is certified within the same parish in which he will not have contact with the student(s) involved, provided that there is another position available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Physical Abuse of Teachers and School Employees by Students

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy revision to §Section 521, required by Act 404 of the 2010 Regular Legislative Session, requires districts to adopt rules and regulations regarding the physical abuse of public school employees by students, and includes some requirements for the rules and regulations. These changes may result in an increase in costs to local governmental units to provide equipment to protect school employees if the districts do not have such equipment and to provide support services for employees if necessary. It is not possible to determine these costs as they are dependent on situations as they occur.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#058

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Staff Misconduct
(LAC 28: CXV.502)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §502. Staff Misconduct*. This policy revision, required by Act 223 of the 2009 Regular Legislative Session, relates to the procedures and requirements for disclosure of information regarding sexual misconduct, abuse and neglect by applicants for public school employment.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§502. Staff Misconduct

A. Each LEA, prior to hiring any employee, shall require that the applicant for employment sign a statement providing for the disclosure of information by the applicant's current or previous employer, if such employer is an LEA, relative to

all instances of sexual misconduct with students committed by the applicant, if any, and releasing the current or previous employer, if such employer is a city, parish, or other local public school board, and any school employee acting on behalf of such employer from any liability for providing such information.

1. The statement shall provide procedures for the disclosure of information by the applicant's current or previous employer, if such employer is the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, or the Louisiana Special Education Center, relative to all instances of abuse or neglect of students, as such terms are defined in Children's Code Article 603, as committed by the applicant, if any.

2. Prior to hiring any applicant, each LEA must request, in writing, that the applicant's current or previous employer, if such employer is an LEA, provide the above-described information, if such information exists, and make available to the hiring school board copies of any documents as contained in the applicant's personnel file maintained by such employer relative to such instances of sexual misconduct, if any. Such request for information must include a copy of the aforementioned statement signed by the applicant.

3. If such information exists, it must be provided and copies of all documents as contained in the applicant's personnel file relating to all instances of sexual misconduct, if any, must be made available to the requesting school board no later than 20 business days from the receipt of the request.

4. Any LEA or any school employee who discloses such information in good faith shall be immune from civil liability for having disclosed such information.

5. An applicant who does not sign the disclosure and release statement cannot be hired. An applicant can be hired on a conditional basis pending the hiring board's review of any information obtained.

6. The statement shall provide procedures for the disclosure of information by the applicant of all instances of sexual misconduct with and abuse or neglect of any student committed by the applicant, if any, and such procedures shall include written notification by the school board, on any application forms provided to the applicant, of the disclosure requirements.

7. Any information obtained can only be used by the hiring board for the purpose of evaluating an applicant's qualifications for employment for the position for which he or she has applied. Such information is not subject to the Public Records Act and is not to be disclosed to any person, other than the applicant, who is not directly involved in the process of evaluating the applicant's qualifications for employment. Unauthorized disclosure is a misdemeanor offense with exposure to a fine of up to \$500 or imprisonment for up to six months, or both.

8. Adult sexual misconduct in schools, for the purposes of disclosing information to LEAs as required by R.S. 17:81.9, includes sexually inappropriate behavior by the adult that is directed at a student, including but not limited to sexually-related conversations, jokes, or questions directed

at students. More specifically, sexual misconduct and abuse or neglect is:

a. any conduct that would amount to sexual harassment under Title IX of the (U.S.) Education Amendments of 1972, as amended;

b. any conduct that would amount to a sexual offense affecting a minor under state criminal codes;

c. any sexual relationship by a school employee with a student, regardless of the student's age; with a former student under 18; with a former student (regardless of age) who suffers from a disability that would prevent consent in a relationship. All students enrolled in the school and in any organization in which the school employee holds a position of trust and responsibility are included;

d. any activity directed toward establishing a sexual relationship such as sending intimate letters; engaging in sexualized dialogue in person, via the Internet, in writing or by phone; making suggestive comments; dating a student.

9. The statement shall include:

a. all actual cases of sexual misconduct with a minor or student by the applicant;

b. all investigations of sexual misconduct by the applicant with a minor or student that occurred within thirty-six months prior to the applicant's resignation, dismissal, or retirement from school employment;

c. all actual or investigated cases of abuse or neglect of a minor or student by the applicant.

10. Any applicant who knowingly and willfully violates the provisions of this Section shall be guilty of a misdemeanor offense and shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:81.9; R.S. 17:587.1; R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:444 (March 2009), amended LR 35:1099 (June 2009), LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators—Staff Misconduct**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy revision, required by Act 223 of the 2009 Regular Legislative Session, relates to the procedures and requirements for disclosure of information regarding sexual misconduct, abuse and neglect by applicants for public school employment. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#056

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Student Biometric Information
(LAC 28:CXV.1149)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1149. Student Biometric Information. This policy revision to Section 3319, required by Act 691 of the 2010 Regular Legislative Session, provides for the eligibility of home study students to participate in interscholastic sports at the secondary level.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 11. Student Services

§1149. Student Biometric Information

A. Biometric information is defined as any noninvasive electronic measurement and evaluation of any physical

characteristics that are attributable to a single person, including fingerprint characteristics, eye characteristics, hand characteristics, vocal characteristics, facial characteristics, and any other physical characteristics used to electronically identify that person with a high degree of certainty.

B. Any LEA that collects such information shall develop, adopt, and implement policies that govern the collection and use of such information that, at a minimum shall:

1. require written permission from the student's parent or other legal guardian, or the student if he or she is age 18 or older, prior to the collection of any biometric information. It requires a form created for the express purpose of obtaining the required permission and requires that the granting of permission shall not be included as a part of any form used for enrollment purposes or other form required by the school's governing authority for any other purpose;

2. require written permission from the student's parent or other legal guardian, or the student if he or she is age 18 or older, prior to the collection of any biometric information. It requires a form created for the express purpose of obtaining the required permission and requires that the granting of permission shall not be included as a part of any form used for enrollment purposes or other form required by the school's governing authority for any other purpose;

3. provide that any biometric information collected from a student shall be used only for identification or fraud prevention purposes;

4. ensure that a student's biometric information shall not be disclosed to a third party without the written permission of the student's parent or other legal guardian, or the student if he or she is age 18 or older, unless the disclosure is required by court order;

5. provide for the secure storage, transmission, and protection of all biometric information from unauthorized disclosure;

6. encrypt student biometric information using an algorithmic process which transforms data into a form in which there is a low probability of assigning meaning to such information without use of a confidential process or key;

7. ensure that the use of a student's biometric information is discontinued upon:

a. the student's graduation or withdrawal from school; or

b. receipt of a written request to discontinue use of such information from the student's parent or other legal guardian, or the student if he or she is age 18 or older;

8. provide that all biometric information collected from a student be destroyed within 30 days after use of such information is discontinued;

9. provide that a student shall not be refused or denied any services due to the failure to provide written consent and that the collection of student biometric information must comply with all applicable state and federal law and requirements, including the federal Family Educational Rights Privacy Act of 1974 (FERPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators—Student Biometric Information**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy revision to Section 1149, required by Act 498 of the 2010 Regular Legislative Session, requires districts that collect biometric data to develop, adopt, and implement policies that govern the collection and use of such information. The revisions also prescribe the minimum requirements for these local policies. These changes will not result in an increase in costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will 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)
There will be no costs or economic benefits to schools or school districts.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#062

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Teachers' Retirement System—Part-Time, Seasonal or Temporary Classroom Teacher
(LAC 28:CXV.515)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §515. Teachers' Retirement System—Part-Time, Seasonal or Temporary Classroom Teacher*. This policy revision to Section 515, required by Act 921 of the 2010 Regular Legislative Session, relates to the Teachers' Retirement System of Louisiana and the rehiring of retirees.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

§515. Teachers' Retirement System—Part-Time, Seasonal or Temporary Classroom Teacher

- A. - B.1.d. ...
- C. Rehired Retirees

1. R.S. 11:710 prohibits anyone other than a "retired teacher" from receiving a retirement benefit pursuant to present law while reemployed, provides that anyone other than a "retired teacher" shall have his benefit suspended during reemployment, and defines "retired teacher" under the new law as:

- a. any retired member who returns to work full-time or part-time as a classroom teacher offering instructional services to any student in grades K-12 in a "critical shortage area";
- b. any other retired member reemployed on or before June 30, 2010;
- c. any retired member who returns to active service as a full-time certified speech therapist, speech pathologist or audiologist whose position of employment requires a valid Louisiana ancillary certificate approved and issued by the state DOE in a school district where a shortage exists.

2. In order for a person who qualifies as a retired teacher because he teaches in a shortage area to receive benefits during the period of her or his reemployment, requires the superintendent and the personnel director of the employing school to certify to the BESE and the TRSL board of trustees that a shortage of teachers exists in the area in which the retired teacher was hired to teach. For speech therapists, speech pathologists, and audiologists in a shortage area, the employer is required to certify that a shortage of such persons exists.

3. Prior to certification, for any full-time teaching position, the employer shall advertise the position twice in the official journal of the school's governing authority and non-retirees shall be given hiring preference over retirees,

unless fewer than three applicants have applied for the position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:162(C); R.S. 11:710.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), amended LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Teachers' Retirement System—Part-Time, Seasonal or Temporary Classroom Teacher

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy revision to §515, required by Act 921 of the 2010 Regular Legislative Session, relates to the Teachers' Retirement System of LA and the rehiring of retirees. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will 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)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#057

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Textbooks (LAC 28:CXV.1703)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1703. Textbooks. This policy revision, required by Act 328 of the 2010 Regular Legislative Session, relates to the use of state funds to purchase textbooks and computer hardware.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 17. Instructional Support

§1703. Textbooks

A. - B. ...

C. State funds appropriated through the MFP may be used to buy books on the state-adopted textbook lists and academically related ancillary materials or computer hardware according to the state guidelines.

C.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8, R.S. 17:351 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005), amended LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Textbooks**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This policy revision, required by Act 328 of the 2010 Regular Legislative Session, relates to the use of state funds to purchase textbooks and computer hardware. These changes will not result in an increase in costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will 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)
There will be no costs or economic benefits to schools or school districts.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#066

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Written Policies and Procedures (LAC 28: CXV.337)

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 revisions to *Bulletin 741—Louisiana Handbook for School Administrators: §337. Written Policies and Procedures*. These policy revisions, required by Acts 214 and 413 of the 2009 Regular Legislative Session and Acts 404 and 498 of the 2010 Regular Legislative Session, require school districts to have policies and procedures to address employee electronic communication with students,

fire safety inspections, physical abuse of public school teachers and employees, and collection of student biometric information.

Title 28

EDUCATION

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

§337. Written Policies and Procedures

A. - B. ...

C. Each LEA shall have policies and procedures that address, but are not limited to, the following:

1. - 19. ...

20. the electronic communications by an employee at a school to a student enrolled at that school (refer to §1141);

21. the inspection by qualified persons of all fire safety and prevention equipment, including fire alarm and smoke detection devices (refer to §1501);

22. the physical abuse of public school teachers and other school employees by students (refer to §521);

23. the collection of student biometric information (refer to §1149).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7(29); R.S. 17:81; R.S.17:240; R.S. 17:100.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for
School Administrators—Written Policies and Procedures**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
These policy revisions, required by Acts 214 and 413 of the 2009 Regular Legislative Session and Acts 404 and 498 of the 2010 Regular Legislative Session, require school districts to have policies and procedures to address employee electronic communication with students, fire safety inspections, physical abuse of public school teachers and employees, and collection of student biometric information. These changes will not result in an increase in costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will 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)
There will be no costs or economic benefits to schools or school districts.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#055

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196—Louisiana Food and Nutrition Programs,
Policies of Operation—Program Operations
(LAC 28:XLIX.513)

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 revisions to *Bulletin 1196—Louisiana Food and Nutrition programs, Policies of Operation: §513. Program Operations*. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. Due to changes from the 2010 Legislative session pertaining to the Child Nutrition Program, it was imperative to revise Chapter 5 in Bulletin 1196. These changes affect the policy in denying meals to ‘public elementary school students.’ These revisions will consolidate necessary changes to Child Nutrition Programs; therefore, making Bulletin 1196 more useful to the local systems throughout the state.

**Title 28
EDUCATION**

**Part XLIX. Bulletin 1196—Louisiana Food and
Nutrition Programs, Policies of Operation**

**Chapter 5. Free and Reduced Price Meals
§513. Program Operations**

A. - B.1. ...

C. Denying Meals to Students for Failure to Pay

1. General

a. The SFA is not obligated to continue providing meals without receiving payment. The students' ability to pay is determined through the free and reduced price meal application process. Those students not eligible for free meals must pay for their meals at the prices established for full price and reduced price students. Regulations do not prohibit a school system from denying a meal to paying students who have not paid for the meal.

2. Denying Meals to Public Elementary School Students

a. If the governing authority of a public elementary school adopts a policy of denying a scheduled meal to an elementary school child for the reason that the child's parent or guardian has failed to pay for the meal, it shall implement the following procedures to provide for safeguards to the child's health and the child's ability to learn.

i. Prior to withholding a meal from the child, the school shall do each of the following:

(a). provide actual notification to the child's parent or legal guardian as to the date and time after which meals may be denied, the reason for such denial, any action that may be taken by the parent or legal guardian to prevent further denial of meals, and the consequences of the failure to take appropriate actions to prevent such denial, including that the school governing authority shall contact the Department of Children and Family Services upon the third instance of such denial during a single school year, as provided in Clause iii of this Paragraph;

(b). verify with appropriate school staff that the child does not have an Individual Education Plan that requires the child to receive meals provided by the school to ensure that neither the child's health nor learning ability will be negatively affected by denying the child meals during school hours.

ii. If the school denies a scheduled meal to a child, the school shall provide a sandwich or a substantial and nutritious snack item to the child as a substitute for the meal denied.

iii. Upon the third instance during a single school year of the same elementary school child being denied a meal during school hours, the school governing authority shall contact the office of community services within the Department of Children and Family Services to report the failure of the parent or guardian to pay for meals which has resulted in repeated denials of meals during school hours.

b. If the governing authority of a public elementary school adopts a policy of denying a scheduled meal to an elementary school child for the reason that the child's parent or guardian has failed to pay for the meal, it shall implement additional procedures to ensure compliance with the nondiscrimination provisions of R.S. 17:195(A).

c. If the governing authority of a public elementary school adopts a policy of denying a scheduled meal to an elementary school child for the reason that the child's parent or guardian has failed to pay for the meal, the governing authority shall document each instance that a child is denied a meal in the elementary school under its authority and shall report annually to the state superintendent of education, to the House Committee on Education, and to the Senate

Committee on Education relative to the number of instances of denials of meals to children during school hours, the reason for the denial of meals to the child, the age and grade of each child so denied, and whether the child qualifies for free and reduced price lunch programs.

d. No governing authority of a public elementary school shall implement a policy that bans the use of charitable funds donated by school employees or the use of other charitable funds to pay for a child's meal in the event that he is subject to the denial of a meal during school hours.

3. Discrimination against any individual by a nutrition program provider because of his inability to pay and the publishing of the name of any such individual is prohibited. Any public school employee who discloses such information, except as reasonably necessary in the conduct of his official duties, shall be subject to the penalties, upon conviction, of a fine of not more than \$100, or imprisonment for not more than 90 days, or both. School employees are prohibited from disclosing such information to any student for any reason.

D. - E.13.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2130 (December 2001), amended LR 29:2025 (October 2003), LR 32:1425 (August 2006), LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation Program Operations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The policy revisions to Chapter 5 in Bulletin 1196, required by Act 737 of the 2010 Regular Legislative Session, pertain to instances of potentially denying meals to public elementary school students. These changes will not result in an increase in costs or savings to local governmental units.

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana Register is approximately \$272.00. Funds are currently budgeted for this purpose.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1012#072

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities (LAC 28:XCVII.105, 113, 117, and 505)

Editor's Note: This Notice of Intent is being repromulgated to correct codification errors. The original Notice may be viewed on pages 2684-2686 of the November 20, 2010, edition of the *Louisiana Register*.

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 revisions to *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*: §105. Timelines, §113. IEP Timelines, §117. Placement/Least Restrictive Educational Environments, §505. Alternate Assessment Participation Criteria. Revisions to §105 and §113 eliminate ambiguity and provide clarity pertaining to timelines and IEP amendments. Revisions to §117 reflect the new federal reporting guidelines for the preschool Placement/Least Restrictive Educational Environments. The revisions in §505 reflect the requirement to include End of Course (EOC) in the LAA 2 participation criteria.

Title 28
EDUCATION

**Part XCVII. Bulletin 1530—Louisiana’s IEP Handbook
for Students with Exceptionalities**

Chapter 1. Individualized Education Program (IEP)

§105. Timelines

A. - A.2.b. ...

c. Students who have been receiving special education in one LEA in Louisiana who transfer to another LEA within Louisiana shall be enrolled in the appropriate special education program in the receiving LEA with the current IEP or the development of a review IEP within five school days of the transfer.

B. - B.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2332 (November 2009), amended LR 37:

§113. IEP Amendments

A. In making changes to a student’s IEP after the annual IEP Team meeting for a school year, the parent of a student with a exceptionality and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may amend or modify the student’s current IEP.

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 35:2335 (November 2009), amended LR 37:

**§117. Placement/Least Restrictive Educational
Environments**

A. - A.7.a. ...

B. For Students with Exceptionalities Ages 3-5. In determining the appropriate setting for a preschool-aged student, each setting noted shall be considered; but the list should not be considered a continuum of least restrictive environment. The settings for preschool-aged students, three through five years, are defined as follows.

1. For Students with Disabilities Ages 3-5

a. Attending a regular early childhood program at least 10 hours per week:

i. receives the majority of special education and related services in the regular early childhood program;

(a). regular early childhood programs include, but are not limited to Head Start, kindergarten, private kindergarten or preschools, preschool classes offered to an eligible pre-kindergarten population by the LEA (e.g., LA 4, Title I); and group child development center or child care;

ii. receives the majority of special education and related services in some other location.

b. Attending a regular early childhood program less than 10 hours per week:

i. receives the majority of special education and related services in the regular early childhood program;

ii. receives the majority of special education and related services in some other location.

c. In early childhood special education—separate class:

i. attends a special education program in a class that includes less than 50 percent nondisabled children.

Special education programs include, but are not limited to special education and related services provided in special education classrooms in regular school buildings; trailers or portables outside regular school buildings; child care facilities; hospital facilities on an outpatient basis; and other community-based settings.

d. In early childhood special education—separate school:

i. receives special education in a public or private day school designed specially for children with disabilities.

e. In early childhood special education—residential facility:

i. receives special education in a public or privately operated residential school or residential medical facility on an inpatient basis.

f. Receiving special education and related services at home:

i. when the child does not attend a regular early childhood program or special education program, but the child receives some or all of his/her special education and related services in the home. Children who receive special education both in a service provider location and at home should be reported in the home category.

g. Receiving special education and related services at service provider location:

i. when the child receives all of their special education and related services from a service provider and does not attend an early childhood program or a special education program provided in a separate class, separate school, or residential facilities. For example, speech therapy is provided in private clinicians’ offices; clinicians’ offices located in school buildings; hospital facilities on an outpatient basis, and libraries and other public locations.

2. For Students who are Gifted and/or Talented Ages 3-5

a. Attending a regular early childhood program at least 10 hours per week:

i. receives the majority of special education and related services in the regular early childhood program;

(a). regular early childhood programs include, but are not limited to Head Start, kindergarten, private kindergarten or preschools, preschool classes offered to an eligible pre-kindergarten population by the LEA (e.g., LA 4, Title I), and group child development center or child care;

ii. receives the majority of special education and related services in some other location.

b. Attending a regular early childhood program less than 10 hours per week:

i. receives the majority of special education and related services in the regular early childhood program;

ii. receives the majority of special education and related services in some other location.

c. In early childhood special education—separate class:

i. attends a special education program in a class that includes less than 50 percent nondisabled children. Special education programs include, but are not limited to special education and related services provided in special education classrooms in regular school buildings; trailers or portables outside regular school buildings, and child care facilities.

d. In early childhood special education—residential facility:

i. attends a public or privately operated residential school or residential medical facility on an inpatient basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2335 (November 2009), amended LR 37:

Chapter 5. Participation in Statewide Assessments
§505. Alternate Assessment Participation Criteria

A. - A.3.j. ...

B. LEAP Alternate Assessment, Level 2 (LAA 2)

1. The student scored at the Unsatisfactory level in English language arts and/or mathematics on the previous year’s LEAP/iLEAP/GEE or scored Needs Improvement on the English II or English III and/or Algebra 1 or Geometry EOC or participated in the LAA 1 or LAA 2.

B 2. - 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 35:2343 (November 2009), amended LR 37:

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 or 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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., January 9, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1530—Louisiana’s IEP
Handbook for Students with Exceptionalities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The policy changes are to eliminate ambiguity and provide clarity, to reflect the revised federal reporting guidelines by the

Office of Management and Budget for the preschool settings for student with disabilities, and for the inclusion of the End of Course achievement level scores in the LAA2 participation criteria.

There will be a cost of \$328 to publish the rule change in The Register. There will be no implementation costs to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Jeanette Vosburg
Executive Director
1012#041

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Membership Foundation Program—Student Membership
(LAC 28:I.1107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement revisions to the Louisiana Administrative Code, Title 28, Part I, §1107. MFP: Student Membership Definition. Louisiana Administrative Code, Title 28, Part I, Section 1107.C contains the Minimum Foundation Program Student Membership Definition. The current Minimum Foundation Program Formula includes students within the Office of Juvenile Justice schools. The membership definition is being aligned with the current Minimum Foundation Program Formula.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 11. Finance and Property

§1107. Minimum Foundation Program

A. - B.1. ...

C. MFP: Student Membership Definition

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, each parish/city and other local school system, recovery school district school, LSU and Southern Lab school, and Office of Juvenile Justice school shall adhere to the following.

a. - b.ix. ...

x. Students receiving educational services at any elementary and secondary school operated by the Office of Juvenile Justice (OJJ) in a secure care facility, considered to be a public elementary or secondary school, will be included in the base membership count of OJJ. The base membership count for OJJ is identified as average daily membership and is calculated by dividing the number of days the students are

under the guidance and direction of teachers by the total instructional days during the specified school year.

D. - D.1.e. ...

AUTHORITY NOTE: Promulgated in accordance with Art. VIII §13 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 37:

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? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2011, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette B. Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Membership Foundation Program: Student Membership

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Louisiana Administrative Code, Title 28, Part I, Section 1107.C contains the Minimum Foundation Program Student Membership Definition. The current Minimum Foundation Program Formula includes students within the Office of Juvenile Justice schools. The membership definition is being aligned with the current Minimum Foundation Program Formula.
This action will have no fiscal effect other than an estimated cost of \$165 for advertising in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action will have 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)
This action will have no effect on cost and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Jeanette B. Vosburg
Executive Director
1012#051

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Emergency Response for Solid Waste Facilities
(LAC 33:VII.115, 513, 521, 711, 713,
715, 717, 721, 723 and 725)(SW054)

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 Solid Waste regulations, LAC 33:VII.115, 513, 521, 711, 713, 715, 717, 721, 723 and 725 (SW054).

This Rule will allow the department to implement the revised requirements for emergency response standards at solid waste facilities, as required by Act 862 of the 2010 Legislative session, which became effective on July 1, 2010. The revised requirements will help ensure that capabilities are in place for first responders in the event of accident, fire, explosion or other emergency at these facilities. Act 862 of the 2010 Legislative session repealed the statutes (R.S. 2157 and 2157.1) that provided the basis for the present emergency response standards for solid waste facilities. The Act directs the secretary to promulgate new regulations prior to July 1, 2011. Under the new regulations, prospective applicants for new or renewal solid waste standard permits will be required to submit an emergency response plan to the Louisiana State Fire Marshal's Office, and obtain approval of the plan, before submitting an application to LDEQ. The basis and rationale of this Rule creates a definitive set of standards for emergency response requirements at solid waste facilities in Louisiana. This 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.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Contingency Plan—repealed.

* * *

Emergency Response Plan—an organized, planned, coordinated course of action to be followed in the event of a fire, explosion, natural disaster, or discharge or release of

waste into the environment that could endanger human health or the environment.

* * *

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 LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:1023 (June 2008), LR 34:1399 (July 2008), LR 37:

Chapter 5. Solid Waste Management System

Subchapter B. Permit Administration

§513. Permit Process for Existing Facilities and for Proposed Facilities

A. - B.2.c. ...

3. The prospective applicant shall file an emergency response plan, as defined in LAC 33:VII.115.A, with the Louisiana State Fire Marshal as a special structures plan, prior to submittal of a new or renewal application for a solid waste permit. The content of the plan shall be in accord with applicable sections of LAC 33:VII.Chapter 7. A copy of the plan shall also be sent to the Office of Environmental Services. Except as provided for in LAC 33:VII.513.B.10, no application for a permit to process or dispose of solid waste shall be filed with nor accepted by the administrative authority until the plan is approved by the Louisiana State Fire Marshal. The prospective applicant shall forward a copy of the approval to the Office of Environmental Services. The approved emergency response plan shall be considered applicable to subsequent permit applications submitted by the same applicant, unless a revised plan is filed with the Louisiana State Fire Marshal. After [INSERT DATE OF PROMULGATION], a revised plan shall be filed with the Louisiana State Fire Marshal prior to submittal of a renewal application.

4. The requirements of Paragraph B.3 of this Section shall not apply if the prospective applicant can demonstrate that he has the ability to meet the emergency response requirements listed below. The prospective applicant shall provide this demonstration to the Office of Environmental Services and the Louisiana State Fire Marshal, at least 30 days prior to submittal of a new or renewal solid waste application.

a. Requirements for Demonstration

i. The prospective applicant shall describe arrangements (including contracts, where applicable) for providing his own emergency response services.

ii. The minimum qualification for firefighters/emergency responders shall be that of Operations Level Responder from the National Fire Protection Association, Standard 472. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

iii. The demonstration shall include a list of all emergency equipment at the facility, such as fire extinguishing systems, spill control equipment,

communications and alarm systems (internal and external), and decontamination equipment.

5. The requirements of Paragraph B.3 of this Section shall not apply to permit modification requests, or to applications for permits (initial or renewal), deemed technically complete prior to [INSERT DATE OF PROMULGATION], except as directed by the administrative authority.

C. - I. ...

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 26:2519 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005), LR 33:1037 (June 2007), LR 33:2143 (October 2007), LR 37:

Subchapter D. Permit Application

§521. Part II: Supplementary Information, All Processing and Disposal Facilities

A. - G.1.e. ...

f. procedures, equipment, and emergency response plans for protecting employees and the general public from accidents, fires, explosions, etc., and provisions for emergency response and care, should an accident occur (including proximity to a hospital, fire and emergency services, and training programs); and

G.1.g. - M. ...

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 LR 19:1143 (September 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007), LR 37:

Chapter 7. Solid Waste Standards

Subchapter A. Landfills, Surface Impoundments, Landfarms

§711. Standards Governing Landfills (Type I and II)

A. - D.5.c. ...

6. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana State Fire Marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. ...

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management

provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of Operations Level Responder from the National Fire Protection Association, Standard 472. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician—basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

E. - F.3.d. ...

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 LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:1047 (June 2007), LR 33:2145 (October 2007), LR 34:1901 (September 2008), LR 37:

§713. Standards Governing Surface Impoundments (Type I and II)

A. - D.4. ...

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana State Fire Marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit

holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. ...

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician—basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

E. - F.2.b.iv. ...

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), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1053 (June 2007), LR 33:2146 (October 2007), LR 36:1241 (June 2010), LR 37:

§715. Standards Governing Landfarms (Type I and II)

A. - D.4. ...

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana State Fire Marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. ...

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of Emergency Medical Technician – Basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

E. - F.3.b. ...

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), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001),

amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1058 (June 2007), LR 33:2147 (October 2007), LR 35:1880 (September 2009), LR 37:

Subchapter B. Solid Waste Processors

§717. Standards Governing All Type I-A and II-A

Solid Waste Processors

A. - G.4. ...

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana State Fire Marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. ...

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician—basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

H. - I.3. ...

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 the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:1061 (June 2007), LR 33:2148 (October 2007), LR 34:613 (April 2008), LR 35:926 (May 2009), LR 37:

Subchapter C. Minor Processing and Disposal Facilities

§721. Standards Governing Construction and Demolition Debris and Woodwaste Landfills (Type III)

A. - C.4. ...

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana State Fire Marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. ...

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician—basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

D. - E.3. ...

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 LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1067 (June 2007), LR 33:2149 (October 2007), LR 34:1901 (September 2008), LR 37:

§723. Standards Governing Composting Facilities

A. - D.5.c. ...

6. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana State Fire Marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. ...

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician—basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

E. - E.4. ...

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 LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:1069 (June 2007), LR 33:2150 (October 2007), LR 37:

§725. Standards Governing Separation and Woodwaste Processing Facilities (Type III)

A. - C.4. ...

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana State Fire Marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. ...

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472. At least one person trained to this

level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician—basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

D. - D.3. ...

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 LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:1073 (June 2007), LR 33:2151 (October 2007), LR 37:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW054. Such comments must be received no later than February 2, 2011, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW054. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on January 26, 2011, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to

participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Response
for Solid Waste Facilities**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no significant costs or savings to state or local governmental units as a result of this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Revenue collections for state government (State Fire Marshal's Office) are expected to increase by about \$3,000.00 per year from plan review fees due to this rule. There is no estimated effect on revenue collections of local governmental units resulting from this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule should have little or no net effect to costs and/or economic benefits for small businesses that are part of the regulated community. The new requirement of an applicant to submit an emergency response plan should not significantly increase the regulated community's costs and/or third-party consulting fees, because the emergency response plan will replace the contingency plan required by the previous regulations. The regulated community should realize some savings since the previous requirement to solicit verification letters from fire departments and EMS agencies for inclusion in the permit application was very time-consuming and inefficient. The rule changes should require a one-time plan submittal and approval process, leading to fewer delays in the permitting process. This will in turn reduce paperwork costs for the regulated community.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition or on employment in the public or private sector as a result of this rule.

Herman Robinson
Executive Counsel
1012#075

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Tax Commission**

Ad Valorem Taxation
(LAC 61:V.101, 703, 901, 907, 1103, 1305,
1307, 1503, 2503, 3101, and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2011 (2012 Orleans Parish) tax year.

The full text of this proposed Rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The Effect on the Stability of the Family. Implementation of these proposed Rules will have no effect on the stability of the family.
2. The Effect on the Authority and Rights of Parent Regarding the Education and Supervision of Their Children. Implementation of these proposed Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The Effect on the Functioning of the Family. Implementation of these proposed Rules will have no effect on the functioning of the family.
4. The Effect on Family Earnings and Family Budget. Implementation of these proposed Rules will have no effect on family earnings and family budget.
5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed Rules will have no effect on the behavior and responsibility of children.
6. The Ability of the Family or a Local Government to Perform the Function as Contained in these Proposed Rules. Implementation of these proposed Rules will have no effect on the ability of the family or local government to perform this function.

Public Comments

Interested persons may submit written comments on the proposed Rules until 4 p.m., January 10, 2011, at the following address: Charles Abels, Tax Commission Administrator, Louisiana Tax Commission, P.O. Box 66788, Baton Rouge, LA 70896.

James D. "Pete" Peters
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Ad Valorem Taxation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated state costs or savings associated with the proposed rules. The impact on local governmental workload and paperwork cannot be quantified, but is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Local Governmental Units

On average, these revisions will generally decrease certain 2011 real and personal property assessments for property of similar age and condition in comparison with equivalent assessments in 2010. However, the assessments of certain property types will increase compared to prior year. Composite multiplier tables for assessment of most personal property will decrease by an estimated 5%. Specific valuation tables for assessment of pipelines will increase by an estimated 2.5% (onshore 4%, offshore by 1.5%). Oil & gas wells will increase by an estimated 4% in all regions including changing the production depth measurement from vertical to horizontal. Additionally, per Table 907(B)3, horizontal wells are now depreciated over 11 years instead of 17 years. Drilling rigs will increase by an estimated 9% on average (Land rigs -16.5%, semi-submersible rigs > 2,500 ft. 42%, well service land only rigs 2%). The net effect determined by averaging these revisions is estimated to decrease assessments by 3% and tax collections by \$21,264,000 in FY 11/12 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

State Governmental Units

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections in FY 10/11 generated by assessment service fees estimated to be \$427,000 from public service companies and \$107,000 from financial institutions and insurance companies all of which are assessed by the Tax Commission.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be lower in 2011 than in 2010. Specific assessments will depend on the age and condition of the property subject to assessment. Taxpayers will be impacted based on the changes to the valuation guidelines for assessments as listed in Section II. The magnitude will depend on the taxable property for which they are liable. Regardless of the guidelines adopted by the Tax Commission, all taxpayers continue to have the right to appeal the assessments.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$534,000 to be paid by public service property owners, financial institutions and insurance companies for 2010/2011.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments

are relatively small and like properties are taxed under the same guidelines, the impact is expected to be minimal.

James D. "Pete" Peters
Chairman
1012#080

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Administration of Anesthetic Agents
(LAC 46:XLVII.3705)

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3705. Perineural Catheters in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed amendment to LAC 46:XLVII.3705 will provide that registered nurses, who are not certified registered nurse anesthetists may titrate and continue infusion of local anesthetic agents through the use of perineural catheters in accordance with revisions to the law governing the practice of nursing through Act 246 of the 2010 Legislature.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered
Nurses**

Subpart 2. Registered Nurses

Chapter 37. Nursing Practice

§3705. Administration of Anesthetic Agents

A. Registered nurses, who are not certified registered nurse anesthetists, may administer anesthetic agents to intubated patients in critical care settings, and may titrate and continue infusion of local anesthetic agents through the use of epidural catheters for pain management, excluding obstetric patients, provided that the following conditions are met.

1. There is an institutional policy and plan for registered nurses (non-CRNAs) to administer anesthetic agents to intubated patients in critical care settings, and to titrate and continue infusion of local anesthetic agents through the use of epidural catheters and perineural catheters for pain management for patients other than obstetric patients that includes:

- a. a clear statement of the purpose and goal of the treatment;
- b. written protocols, with documentation of acceptance of the protocols by the medical staff of the agency;
- c. policies and procedures to include but not be limited to the following:
 - i. preparation of solution;
 - ii. initiation of infusion;
 - iii. responding to emergency situations;

iv. maximum dose per hour of an anesthetic agent which can be administered by a registered nurse, who is not a certified registered nurse anesthetist, as approved by the medical staff; and

v. criteria for documentation of the procedure.

2. No anesthetic agent may be administered by a registered nurse, who is not a certified registered nurse anesthetist pursuant to this part unless there is a medical order by an authorized prescriber. Any orders to change the rate of infusion must be a medical order or in lieu of a specific order to change the rate of infusion, there are clearly stated criteria, by the authorizing prescriber, for adjusting the rate of infusion. However, in an emergency situation, the registered nurse may decrease the rate of infusion before calling the authorized prescriber.

B. Further, registered nurses, who are not certified registered nurse anesthetists, may titrate and continue infusion of local anesthetic agents through the use of epidural catheters and perineural catheters for pain management, excluding obstetric patients, provided that the following conditions are met.

1. There is documentation that the registered nurse has successfully completed a course of instruction, which includes but is not limited to didactic instruction and supervised clinical practice on the following:

- a. anatomy and physiology of the spinal cord and column and neurological system;
- b. purpose of the epidural and perineural catheter for pain management;
- c. catheter placement and signs and symptoms of misplacement;
- d. effects of medication administered epidurally and perineurally;
- e. untoward reaction to medication and management;
- f. complications; and
- g. nursing care responsibilities:
 - i. observation;
 - ii. procedures;
 - iii. catheter maintenance;
 - iv. proper calibration and operation of infusion pump; and
 - v. removal of the epidural or perineural catheter.

2. Competencies shall be measured initially during orientation and on an annual basis.

C. The administration of anesthetic agents to intubated patients in critical care settings, and the titration and continuance of infusion of local anesthetic agents through the use of epidural and perineural catheters for pain management for patients may not be delegated or assigned by a registered nurse to anyone other than a registered nurse who meets the criteria set forth in this standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:935.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 32:246 (February 2006), amended 37:

Family Impact Statement

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to

Rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed Rule amendments.

Public Comments

Interested persons may submit written comments on the proposed Rule until 5 p.m., January 10, 2010 to Barbara L. Morvant, Executive Director, 17373 Perkins Road, Baton Rouge, LA 70810.

Barbara L. Morvant, MN, RN
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Administration of Anesthetic Agents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated increase or decrease in expenditures or savings except for the cost of printing, which is estimated at \$300.00 in FY 10-11.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that there will be an economic benefit to hospitals that may otherwise require that a certified registered nurse anesthetist (CRNA) or an anesthesiologist leave their operating/surgical area to attend to patients in the orthopedic section of hospital in order to administer local anesthetic agents through a perineural catheter. Through this rule, registered nurses (RNs) already on-hand at the hospital, who have received the requisite training, will be allowed to administer the anesthesia through a perineural catheter if the CRNA or anesthesiologist are unavailable. Registered nurses will have to undergo additional training in the use, care, and maintenance of perineural catheters, including instruction and supervised clinical practice. Also, they will have to undergo additional instruction on the neurological system. As such, the employing hospital will have to fund the necessary training expenses and clinical supervision necessary for RNs who will be partaking in this service. This will occur mostly for RNs in post-surgical units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment is negligible. While the law revision and proposed rule provide for registered nurses who are not CRNAs to titrate and continue infusion of local anesthetic agents through the use of perineural catheters, this should not impact competition or employment of CRNAs. Instead, the rule allows RNs, who have been properly educated and prepared in the procedure, to provide the needed patient services in a cost efficient manner and allow the CRNA to be available for their responsibilities in more complex situations

Barbra L. Morvant
Executive Director
1012#078

Robert E Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

All Inclusive Care for the Elderly
Reimbursement Rate Reduction
(LAC 50:XXIII.1301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXIII.1301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 amended the provisions governing the Program of All Inclusive Care for the Elderly (PACE) to: 1) remove the requirement that eligibility decisions be approved by the state administering agency; 2) revise PACE disenrollment criteria; 3) allow for service area specific rates instead of one statewide rate; and 4) clarify when the obligation for patient liability begins (*Louisiana Register*, Volume 33, Number 5).

As a result of a budgetary shortfall in state fiscal year 2011, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for PACE to reduce the capitated amounts paid to PACE organizations (*Louisiana Register*, Volume 36, Number 8). Due to a continuing budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for PACE to further reduce the capitated amount paid to PACE organizations (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the August 1, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIII. All Inclusive Care for the Elderly

Chapter 13. Reimbursement

§1301. Payment

A. - J.3. ...

K. Effective for dates of service on or after August 1, 2010, the monthly capitated amount paid to a PACE organization shall be reduced by 2 percent of the capitated amount on file as of July 31, 2010.

L. Effective for dates of service on or after December 1, 2010, the monthly capitated amount paid to a PACE

organization shall be reduced by 3.09 percent of the capitated amount on file as of November 30, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:250 (February 2004), amended LR 33:850 (May 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the PACE Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: All Inclusive Care for the Elderly—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$87,938 for FY 10-11, \$163,464 for FY 11-12 and \$169,351 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$260,790 for FY 10-11, \$338,729 for FY 11-12 and \$347,908 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the August 1, 2010 and the December 1, 2010 emergency rules, amends the provisions governing the Program for All Inclusive Care for the Elderly (PACE) to reduce the capitated amount paid to PACE organizations (approximately 2,840 service units). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$349,056 for FY 10-11, \$502,193 for FY 11-12 and \$517,259 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to PACE organizations. The reduction in payments may adversely impact the financial standing of these organizations and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#116

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Ambulatory Surgical Centers
Reimbursement Rate Reduction
(LAC 50:XI.7503)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.7503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed

Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for ambulatory surgical centers to further reduce the reimbursement rates paid for ambulatory surgical services (*Louisiana Register*, Volume 36, Number 10). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XI.7503 as a result of the promulgation of the October 20, 2010 final Rule governing ambulatory surgical centers (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ambulatory surgical centers to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 11. Ambulatory Surgical Centers

Chapter 75. Reimbursement

§7503. Reimbursement Methodology

A. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 4.4 percent of the fee amounts on file as of July 31, 2010.

F. Effective for dates of service on or after December 1, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:2278 (October 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Ambulatory Surgical Centers—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$56,899 for FY 10-11, \$109,120 for FY 11-12 and \$113,051 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$168,854 for FY 10-11, \$226,120 for FY 11-12 and \$232,247 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the November 20, 2010 and the December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for ambulatory surgical centers to further reduce the reimbursement rates for surgical services (approximately 28,500 services annually). It is anticipated that implementation

of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$226,081 for FY 10-11, \$335,240 for FY 11-12 and \$345,298 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to ambulatory surgical centers. The reduction in payments may adversely impact the financial standing of ambulatory surgical centers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#117

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Dental Program
Covered Services and Reimbursement Rate Reduction
(LAC 50:XV.6903 and 6905)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50: XV.6903 and §6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to reduce the reimbursement fees (*Louisiana Register*, Volume 36, Number 9).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for EPSDT dental services to further reduce the reimbursement rates. In addition, this emergency rule also amended the provisions governing the covered services and reimbursement methodology for the EPSDT Dental Program to include an additional dental procedure (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XV.6905 as a result of the promulgation of the September 20, 2010 final Rule

governing EPSDT dental services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for EPSDT dental services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 69. Dental Services

§6903. Covered Services

A. - D. ...

E. Effective August 1, 2010, the prefabricated esthetic coated stainless steel crown-primary tooth dental procedure shall be included in the service package for coverage under the EPSDT Dental Program.

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), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:1138 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 37:

§6905. Reimbursement

A. - D.3. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement fees for EPSDT dental services shall be reduced to the following percentages of the 2009 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 69 percent for the following oral evaluation services:

- a. periodic oral examination;
- b. oral examination—patients under three years of age; and
- c. comprehensive oral examination—new patient;

2. 65 percent for the following annual and periodic diagnostic and preventive services:

- a. radiographs—periapical, first film;
- b. radiograph—periapical, each additional film;
- c. radiograph—panoramic film;
- d. prophylaxis—adult and child;
- e. topical application of fluoride—adult and child (prophylaxis not included); and
- f. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age);

3. 50 percent for the following diagnostic and adjunctive general services:

- a. oral/facial images;
- b. non-intravenous conscious sedation; and
- c. hospital call; and

4. 58 percent for the remainder of the dental services.

F. Removable prosthodontics and orthodontic services are excluded from the August 1, 2010 rate reduction.

G. Effective for dates of service on and after December 1, 2010, the reimbursement fees for EPSDT dental services shall be reduced to the following percentages of the 2009 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 67.5 percent for the following oral evaluation services:

- a. periodic oral examination;
- b. oral Examination—patients under 3 years of age; and
- c. comprehensive oral examination—new patients;

2. 63.5 percent for the following annual and periodic diagnostic and preventive services:

- a. radiographs—periapical, first film;
- b. radiographs—periapical, each additional film;
- c. radiographs—panoramic film;
- d. prophylaxis—adult and child;
- e. topical application of fluoride, adult and child (prophylaxis not included); and
- f. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age);

3. 50 percent for the following diagnostic and adjunctive general services:

- a. oral/facial image;
- b. non-intravenous conscious sedation; and
- c. hospital call; and

4. 57 percent for the remainder of the dental services.

H. Removable prosthodontics and orthodontic services are excluded from the December 1, 2010 rate reduction.

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 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), amended LR 36:2040 (September 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—Dental Program—Covered Services and Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$1,629,075 for FY 10-11, \$2,938,048 for FY 11-12 and \$3,043,854 for FY 12-13. It is anticipated that \$656(\$328 SGF and \$328 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent(in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$4,825,907 for FY 10-11, \$6,088,215 for FY 11-12 and \$6,253,197 for FY 12-13. It is anticipated that \$328 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent(in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the November 20, 2010 and the December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services to further reduce the reimbursement rates (approximately 2,450,000 units of service) and adds an additional covered service. It is anticipated that implementation of this proposed rule will decrease program

expenditures in the Medicaid Program by approximately \$6,455,638 for FY 10-11, \$9,026,263 for FY 11-12 and \$9,297,051 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to EPSDT dental services providers. The reduction in payments may adversely impact the financial standing of EPSDT dental services providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#118

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Health Services
EarlySteps Reimbursement Rate Reduction
(LAC 50:XV.7107)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.7107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of the allocation of additional funds during the 2008 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services to increase the reimbursement rates paid for certain services rendered to infants and toddlers in the EarlySteps Program (*Louisiana Register*, Volume 35, Number 1). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the EPSDT Program to reduce the reimbursement rates paid for certain health services rendered in the EarlySteps Program (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 1, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services to Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 71. Health Services

§7107. EarlySteps Reimbursement

A. - B.2.e. ...

C. Effective for dates of service on or after December 1, 2010, the reimbursement for certain Medicaid-covered health services rendered in the EarlySteps Program shall be reduced by 2 percent of the rate in effect on November 30, 2010.

1. The following services rendered in the natural environment shall be reimbursed at the reduced rate:

- a. audiology services;
- b. speech pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

2. Services rendered in special purpose facilities/inclusive child care and center-based special purpose facilities shall be excluded from this rate reduction.

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 30:800 (April 2004), amended LR 31:2030 (August 2005), LR 35:69 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—Health Services—EarlySteps Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$17,346 for FY 10-11, \$50,746 for FY 11-12 and \$52,573 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent(in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$51,700 for FY 10-11, \$105,156 for FY 11-12 and \$108,006 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent(in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the December 1, 2010 emergency rule, amends the provisions governing the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to reduce the reimbursement rates paid for health services provided in the EarlySteps Program. It is anticipated that implementation of this proposed rule will reduce expenditures in the EPSDT Program by approximately \$69,374 for FY 10-11, \$155,902 for FY 11-12 and \$160,579 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to providers for EPSDT health services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#115

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

End Stage Renal Disease Facilities
Reimbursement Rate Reduction
(LAC 50:XI.6901 and 6903)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.6901 and §6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for end stage renal disease (ESRD) facilities to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 9). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ESRD facilities to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XI.6901-6903 as a result of the promulgation of the September 20, 2010 final Rule (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ESRD facilities to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 9. End Stage Renal Disease Facilities

Chapter 69. Reimbursement

§6901. General Provisions

A. End stage renal disease (ESRD) facilities are reimbursed a hemodialysis composite rate. The composite rate is a comprehensive payment for the complete hemodialysis treatment in which the facility assumes responsibility for providing all medically necessary routine dialysis services.

B. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement to ESRD facilities shall be reduced by 4.6 percent of the rates in effect on July 31, 2010.

F. Effective for dates of service on or after December 1, 2010, the reimbursement to ESRD facilities shall be reduced by 2 percent of the rates in effect on November 30, 2010.

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 30:1022 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1891 (September 2009), LR 36:2040 (September 2010), LR 37:

§6903. Medicare Part B Claims

A. - D. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement to ESRD facilities for Medicare Part B claims shall be reduced by 4.6 percent of the rates in effect on July 31, 2010.

F. Effective for dates of service on or after December 1, 2010, the reimbursement to ESRD facilities for Medicare Part B claims shall be reduced by 2 percent of the rates in effect on November 30, 2010.

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, Bureau of Health Services Financing, LR 35:1891 (September 2009), amended LR 36:2010 (September 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: End Stage Renal Disease
Facilities—Reimbursement Rate Reduction**

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Home and Community-Based Services Waivers
Adult Day Health Care
Reimbursement Rate Reduction
(LAC 50:XXI.2915)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$376,982 for FY 10-11, \$713,595 for FY 11-12 and \$739,293 for FY 12-13. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$1,117,009 for FY 10-11, \$1,478,708 for FY 11-12 and \$1,518,779 for FY 12-13. It is anticipated that \$205 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule, which continues the provisions of the November 20, 2010 and the December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for end stage renal disease facilities to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$1,494,401 for FY 10-11, \$2,192,303 for FY 11-12 and \$2,258,072 for FY 12-13.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to end stage renal disease facilities. The reduction in payments may adversely impact the financial standing of end stage renal disease facilities and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#114

Robert E. Hosse
Staff Director
Legislative Fiscal Office

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 Aging and Adult Services amended the provisions governing the Adult Day Health Care (ADHC) Waiver to redefine and clarify the provisions of the waiver relative to the target population, the request for services registry, the comprehensive plan of care, and support coordination services (*Louisiana Register*, Volume 34, Number 10). The October 20, 2008 Rule also amended the provisions governing the reimbursement methodology to reduce the comprehensive ADHC rate paid to providers as a result of adding support coordination as a separate service since these services were traditionally reimbursed as part of the comprehensive ADHC rate. These provisions were repromulgated by the department in December 2008 to correct an error of omission in the publication (*Louisiana Register*, Volume 34, Number 12).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the ADHC Waiver to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). Due to a continuing budgetary shortfall, the department now proposes to amend the provisions governing the reimbursement methodology for the ADHC Waiver to further reduce the reimbursement rates. This proposed Rule is also being promulgated to continue the provisions of the August 1, 2010 Emergency Rule.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers
Subpart 3. Adult Day Health Care
Chapter 29. Reimbursement
§2915. Provider Reimbursement
A. - D.2....**

E. Effective for dates of service on or after August 1, 2010, the reimbursement rates for ADHC services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

F. Effective for dates of service on or after April 1, 2011, the reimbursement rates for ADHC services shall be reduced by 2 percent of the rates in effect on March 31, 2011.

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 Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2575 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home and Community-Based Services Waivers—Adult Day Health Care Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$35,430 for FY 10-11, \$95,123 for FY 11-12 and \$98,548 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized

by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$105,266 for FY 10-11, \$197,112 for FY 11-12 and \$202,454 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the August 1, 2010 emergency rule and amends the provisions governing the reimbursement methodology for the Adult Day Health Care (ADHC) Waiver to further reduce the reimbursement rates for ADHC services (approximately 109,000 units (days) per year). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$141,024 for FY 10-11, \$292,235 for FY 11-12 and \$301,002 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to Adult Day Health Care providers. The reduction in payments may adversely impact the financial standing of these providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#113

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Home and Community-Based Services Waivers
Children's Choice
Service Cap and Reimbursement Rate Reduction
(LAC 50:XXI.11301 and 12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.11301 and §12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the

Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the Children’s Choice Waiver in order to reduce the reimbursement rates, and to amend the provisions governing family training to clarify the service description and the components of the service that qualify for Medicaid reimbursement (*Louisiana Register*, Volume 36, Number 10).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Children’s Choice Waiver to reduce the service cap and to further reduce the reimbursement rates paid for waiver services (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule governing the service cap in order to revise the effective date of the service cap reduction (*Louisiana Register*, Volume 36, Number 9). The September 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XXI.12101 as a result of the promulgation of the October 20, 2010 final Rule governing the Children’s Choice Waiver (*Louisiana Register*, Volume 36, Number 12).

Due to a continuing budgetary shortfall, the department now proposes to amend the provisions governing the reimbursement methodology for the Children’s Choice Waiver to further reduce the reimbursement rates and the service cap. This proposed Rule is also being promulgated to continue the provisions of the December 20, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 9. Children’s Choice

Chapter 113. Services

§11301. Service Cap

A. - B. ...

C. Effective September 1, 2010, Children’s Choice Waiver services are capped at \$16,660 per individual per plan of care year.

D. Effective April 1, 2011, the Children’s Choice Waiver services cap shall be reduced to \$16,327 per individual per plan of care year.

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 28:1983 (September 2002), amended by

the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2440 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. - C.1. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for Children’s Choice Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following items shall be excluded from the rate reduction:

- a. environmental accessibility adaptations;
- b. family training services; and
- c. support coordination services.

E. Effective for dates of service on or after April 1, 2011, the reimbursement rates for Children’s Choice Waiver services shall be reduced by 2 percent of the rates in effect on March 31, 2011.

1. The following items shall be excluded from the rate reduction:

- a. environmental accessibility adaptations;
- b. family training services; and
- c. support coordination 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 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), amended LR 36:2280 (October 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services
Waivers—Children's Choice—Service Cap and
Reimbursement Rate Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$48,315 for FY 10-11, \$127,973 for FY 11-12 and \$132,581 for FY 12-13. It is anticipated that \$492 (\$246 SGF and \$246 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$143,589 for FY 10-11, \$265,184 for FY 11-12 and \$272,370 for FY 12-13. It is anticipated that \$246 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule amends the provisions governing the Children's Choice Waiver to further reduce the service cap and the reimbursement rates paid for waiver services and continues the provisions of the December 20, 2010 emergency rule. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$192,396 for FY 10-11, \$393,157 for FY 11-12 and \$404,951 for FY 12-13.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to

Children's Choice Waiver providers. The reduction in payments may adversely impact the financial standing of these providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#112

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

Home and Community-Based Services Waivers
Elderly and Disabled Adults
Reimbursement Rate Reduction
(LAC 50:XXI.9101, 9107-9121)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.9101 and to adopt §§9107-9121 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2009, the department amended the provisions governing the reimbursement methodology for the Elderly and Disabled Adult (EDA) Waiver to reduce the reimbursement rates paid for companion services (*Louisiana Register*, Volume 35, Number 9). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for EDA Waiver services to reduce the reimbursement rates for personal assistance and adult day health care (ADHC) services, and to adopt provisions governing the reimbursement for adult day health care services (*Louisiana Register*, Volume 36, Number 8).

Due to a continuing budgetary shortfall, the department now proposes to amend the provisions governing the EDA Waiver to further reduce the reimbursement rates for personal assistance and ADHC services. This proposed Rule is also being promulgated to continue the provisions of the August 1, 2010 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers

Subpart 7. Elderly and Disabled Adults

Chapter 91. Reimbursement

Subchapter A. General Provisions

§9101. Reimbursement Methodology

A. Reimbursement for EDA Waiver services, with the exception of ADHC services, shall be a prospective flat rate for each approved unit of service provided to the recipient. Adult day health care services shall be reimbursed according to the provisions of Subchapter B of this Chapter 91.

B. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for personal assistance services in the EDA Waiver shall be reduced by 2 percent of the rates on file as of July 31, 2010.

E. Effective for dates of service on or after April 1, 2011, the reimbursement rates for personal assistance services in the EDA Waiver shall be reduced by 2 percent of the rates on file as of March 31, 2011.

1. This reimbursement rate reduction shall not apply to shared 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 Aging and Adult Services, LR 34:251 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1893 (September 2009), amended LR 37:

Subchapter B. Adult Day Health Care Services
Reimbursement

§9107. General Provisions

A. Providers of adult day health care services shall be reimbursed a per diem rate for services rendered under a prospective payment system (PPS). The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for waiver recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9109. Cost Reporting

A. Cost Centers Components

1. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing and fringe benefits and direct care supplies.

2. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for activity and social services staff, raw food costs and care related supplies for activities and social services.

3. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries and related benefits for administrative, dietary, housekeeping and maintenance staff. Also included are:

a. utilities;

b. accounting;
c. dietary;
d. housekeeping and maintenance supplies; and
e. all other administrative and operating type expenditures.

4. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes and other expenses related to capital assets.

B. Providers of ADHC services are required to file acceptable annual cost reports of all reasonable and allowable costs. An acceptable cost report is one that is prepared in accordance with the requirements of this Section and for which the provider has supporting documentation necessary for completion of a desk review or audit. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the center for no less than five years following the date reports are submitted to the bureau. A chart of accounts and an accounting system on the accrual basis or converted to the accrual basis at year end are required in the cost report preparation process. The bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

C. The cost reporting forms and instructions developed by the bureau must be used by all facilities participating in the Louisiana Medicaid Program who render ADHC services. Hospital based and other provider based facilities which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms also. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

D. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed in duplicate together with two copies of the following documents:

1. a working trial balance that includes the appropriate cost report line numbers to which each account can be traced. This may be done by writing the cost report category and line numbers by each ending balance or by running a trial balance in cost report category and line number order that totals the account;

2. a depreciation schedule. The depreciation schedule which reconciles to the depreciation expense reported on the cost report must be submitted. If the center files a home office cost report, copies of the home office depreciation schedules must also be submitted with the home office cost report. All hospital based facilities must submit two copies of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

3. an amortization schedule(s), if applicable;

4. a schedule of adjustment and reclassification entries;

5. a narrative description of purchased management services and a copy of contracts for managed services, if applicable;

6. for management services provided by a related party or home office, a description of the basis used to allocate the costs to providers in the group and to non-provider activities and copies of the cost allocation worksheet, if applicable. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule; and

7. all allocation worksheets must be submitted by hospital-based facilities. The Medicare worksheets that must be attached by facilities using the Medicare forms for allocation are:

- a. A;
- b. A-6;
- c. A-7 parts I, II and III;
- d. A-8;
- e. A-8-1;
- f. B part 1; and
- g. B-1.

E. Each copy of the cost report must have the original signatures of an officer or center administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

F. When it is determined, upon initial review for completeness, that an incomplete or improperly completed cost report has been submitted, the provider will be notified. The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses for which requested information is not submitted.

G. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a center is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year-end for the equitable distribution of costs to the applicable period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts.

Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the reporting period.

H. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs. Financial and statistical records must be maintained by the center for five years from the date the cost report is submitted to the bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

I. Employee Record

1. The provider shall retain written verification of hours worked by individual employees.

a. Records may be sign-in sheets or time cards, but shall indicate the date and hours worked.

b. Records shall include all employees even on a contractual or consultant basis.

2. Verification of criminal background check.

3. Verification of employee orientation and in-service training.

4. Verification of the employee's communicable disease screening.

J. Billing Records

1. The provider shall maintain billing records in accordance with recognized fiscal and accounting procedures. Individual records shall be maintained for each client. These records shall meet the following criteria.

a. Records shall clearly detail each charge and each payment made on behalf of the client.

b. Records shall be current and shall clearly reveal to whom charges were made and for whom payments were received.

c. Records shall itemize each billing entry.

d. Records shall show the amount of each payment received and the date received.

2. The provider shall maintain supporting fiscal documents and other records necessary to ensure that claims are made in accordance with federal and state requirements.

K. Non-acceptable Descriptions. "Miscellaneous," "other" and "various," without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made.

L. Exceptions. Limited exceptions to the cost report filing requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, the provider must attach a statement describing fully the nature of the exception for which prior written permission was requested

and granted. Exceptions which may be allowed with written approval are as follows.

1. If the center has been purchased or established during the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

2. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9111. Cost Categories Included in the Cost Report

A. Direct Care (DC) Costs

1. Salaries, Aides—gross salaries of certified nurse aides and nurse aides in training.

2. Salaries, LPNs—gross salaries of nonsupervisory licensed practical nurses and graduate practical nurses.

3. Salaries, RNs—gross salaries of nonsupervisory registered nurses and graduate nurses (excluding director of nursing and resident assessment instrument coordinator).

4. Salaries, Social Services—gross salaries of nonsupervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well being of the residents.

5. Salaries, Activities—gross salaries of nonsupervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well being of the residents.

6. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

7. Group Insurance, DC—cost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

8. Pensions, DC—cost of employer's contribution to employee pensions for direct care employees.

9. Uniform Allowance, DC—employer's cost of uniform allowance and/or uniforms for direct care employees.

10. Worker's Comp, DC—cost of worker's compensation insurance for direct care employees.

11. Contract, Aides—cost of aides through contract that are not center employees.

12. Contract, LPNs—cost of LPNs and graduate practical nurses hired through contract that are not center employees.

13. Contract, RNs—cost of RNs and graduate nurses hired through contract that are not center employees.

14. Drugs, Over-the-Counter and Legend—cost of over-the-counter and legend drugs provided by the center to its residents. This is for drugs not covered by Medicaid.

15. Medical Supplies—cost of patient-specific items of medical supplies such as catheters, syringes and sterile dressings.

16. Medical Waste Disposal—cost of medical waste disposal including storage containers and disposal costs.

17. Other Supplies, DC—cost of items used in the direct care of residents which are not patient-specific such as recreational/activity supplies, prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, and blood pressure cuffs.

18. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

19. Total Direct Care Costs—sum of the above line items.

B. Care Related (CR) Costs

1. Salaries—gross salaries for care related supervisory staff including supervisors or directors over nursing, social service and activities/recreation.

2. Salaries, Dietary—gross salaries of kitchen personnel including dietary supervisors, cooks, helpers and dishwashers.

3. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

4. Group Insurance, CR—cost of employer's contribution to employee health, life, accident and disability insurance for care related employees.

5. Pensions, CR—cost of employer's contribution to employee pensions for care related employees.

6. Uniform Allowance, CR—employer's cost of uniform allowance and/or uniforms for care related employees.

7. Worker's Comp, CR—cost of worker's compensation insurance for care related employees.

8. Barber and Beauty Expense—the cost of barber and beauty services provided to patients for which no charges are made.

9. Consultant Fees, Activities—fees paid to activities personnel, not on the center's payroll, for providing advisory and educational services to the center.

10. Consultant Fees, Nursing—fees paid to nursing personnel, not on the center's payroll, for providing advisory and educational services to the center.

11. Consultant Fees, Pharmacy—fees paid to a registered pharmacist, not on the center's payroll, for providing advisory and educational services to the center.

12. Consultant Fees, Social Worker—fees paid to a social worker, not on the center's payroll, for providing advisory and educational services to the center.

13. Consultant Fees, Therapists—fees paid to a licensed therapist, not on the center's payroll, for providing advisory and educational services to the center.

14. Food, Raw—cost of food products used to provide meals and snacks to residents. Hospital based facilities must allocate food based on the number of meals served.

15. Food, Supplements—cost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.

16. Supplies, CR—the costs of supplies used for rendering care related services to the patients of the center.

All personal care related items such as shampoo and soap administered by all staff must be included on this line.

17. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

18. Total Care Related Costs—the sum of the care related cost line items.

19. Contract, Dietary—cost of dietary services and personnel hired through contract that are not employees of the center.

C. Administrative and Operating Costs (AOC)

1. Salaries, Administrator—gross salary of administrators excluding owners. Hospital based facilities must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing center.

2. Salaries, Assistant Administrator—gross salary of assistant administrators excluding owners.

3. Salaries, Housekeeping—gross salaries of housekeeping personnel including housekeeping supervisors, maids and janitors.

4. Salaries, Laundry—gross salaries of laundry personnel.

5. Salaries, Maintenance—gross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

6. Salaries, Drivers—gross salaries of personnel involved in transporting clients to and from the center.

7. Salaries, Other Administrative—gross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants and other office and clerical personnel.

8. Salaries, Owner or Owner/Administrator—gross salaries of all owners of the center that are paid through the center.

9. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

10. Group Insurance, AOC—cost of employer's contribution to employee health, life, accident and disability insurance for administrative and operating employees.

11. Pensions, AOC—cost of employer's contribution to employee pensions for administration and operating employees.

12. Uniform Allowance, AOC—employer's cost of uniform allowance and/or uniforms for administration and operating employees.

13. Worker's Compensation, AOC—cost of worker's compensation insurance for administration and operating employees.

14. Contract, Housekeeping—cost of housekeeping services and personnel hired through contract that are not employees of the center.

15. Contract, Laundry—cost of laundry services and personnel hired through contract that are not employees of the center.

16. Contract, Maintenance—cost of maintenance services and persons hired through contract that are not employees of the center.

17. Consultant Fees, Dietician—fees paid to consulting registered dietitians.

18. Accounting Fees—fees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care center and other related services excluding personal tax planning and personal tax return preparation.

19. Amortization Expense, Non-Capital—costs incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are nonallowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

20. Bank Service Charges—fees paid to banks for service charges, excluding penalties and insufficient funds charges.

21. Dietary Supplies—costs of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

22. Dues—dues to one organization are allowable.

23. Educational Seminars and Training—the registration cost for attending educational seminars and training by employees of the center and costs incurred in the provision of in-house training for center staff, excluding owners or administrative personnel.

24. Housekeeping Supplies—cost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

25. Insurance, Professional Liability and Other—includes the costs of insuring the center against injury and malpractice claims.

26. Interest Expense, Non-Capital and Vehicles—interest paid on short term borrowing for center operations.

27. Laundry Supplies—cost of consumable goods used in the laundry including soap, detergent, starch and bleach.

28. Legal Fees—only actual and reasonable attorney fees incurred for non-litigation legal services related to patient care are allowed.

29. Linen Supplies—cost of sheets, blankets, pillows, gowns, under-pads and diapers (reusable and disposable).

30. Miscellaneous—costs incurred in providing center services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expense are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, allowable advertising, and flowers purchased for the enjoyment of the clients. Items reported on this line must be specifically identified.

31. Management Fees and Home Office Costs—the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule.

32. Nonemergency Medical Transportation—the cost of purchased nonemergency medical transportation services including, but not limited to, payments to employees for use

of personal vehicle, ambulance companies and other transportation companies for transporting patients of the center.

33. Office Supplies and Subscriptions—cost of consumable goods used in the business office such as:

- a. pencils, paper and computer supplies;
- b. cost of printing forms and stationery including, but not limited to, nursing and medical forms, accounting and census forms, charge tickets, center letterhead and billing forms;
- c. cost of subscribing to newspapers, magazines and periodicals.

34. Postage—cost of postage, including stamps, metered postage, freight charges and courier services.

35. Repairs and Maintenance—supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the center building, furniture and equipment except vehicles. This includes computer software maintenance.

36. Taxes and Licenses—the cost of taxes and licenses paid that are not included on any other line on Form 6. This includes tags for vehicles, licenses for center staff (including nurse aide re-certifications) and buildings.

37. Telephone and Communications—cost of telephone services, wats lines and fax services.

38. Travel—cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct center business. Commuting expenses and travel allowances are not allowable.

39. Vehicle Expenses—vehicle maintenance and supplies, including gas and oil.

40. Utilities—cost of water, sewer, gas, electric, cable TV and garbage collection services.

41. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

42. Total Administrative and Operating Costs.

D. Property and Equipment

1. Amortization Expense, Capital—legal and other costs incurred when financing the center must be amortized over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are nonallowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

2. Depreciation—depreciation on the center's buildings, furniture, equipment, leasehold improvements and land improvements.

3. Interest Expense, Capital—interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the center's land, buildings and/or furniture, equipment and vehicles.

4. Property Insurance—cost of fire and casualty insurance on center buildings, equipment and vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

5. Property Taxes—taxes levied on the center's buildings, equipment and vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

6. Rent, Building—cost of leasing the center's real property.

7. Rent, Furniture and Equipment—cost of leasing the center's furniture and equipment, excluding vehicles.

8. Lease, Automotive—cost of leases for vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

9. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

10. Total Property and Equipment.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9113. Allowable Costs

A. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs.

1. These general cost principles include determining whether the cost is:

- a. ordinary, necessary, and related to the delivery of care;
- b. what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm's length transaction; and
- c. for goods or services actually provided to the center.

B. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a provider's reported costs. The Medicare Provider Reimbursement Manual is the final authority for allowable costs unless the department has set a more restrictive policy.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9115. Nonallowable Costs

A. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of recipients are considered nonallowable costs.

B. Reasonable cost does not include the following:

1. costs not related to client care;
2. costs specifically not reimbursed under the program;
3. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);
4. costs that are found to be substantially out of line with other centers that are similar in size, scope of services and other relevant factors;

5. costs exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

C. General nonallowable costs:

1. services for which Medicaid recipients are charged a fee;
2. depreciation of non-client care assets;
3. services that are reimbursable by other state or federally funded programs;
4. goods or services unrelated to client care;
5. unreasonable costs.

D. Specific nonallowable costs (this is not an all inclusive listing):

1. advertising—costs of advertising to the general public that seeks to increase patient utilization of the ADHC center;
2. bad debts—accounts receivable that are written off as not collectible;
3. contributions—amounts donated to charitable or other organizations;
4. courtesy allowances;
5. director's fees;
6. educational costs for clients;
7. gifts;
8. goodwill or interest (debt service) on goodwill;
9. costs of income producing items such as fund raising costs, promotional advertising, or public relations costs and other income producing items;
10. income taxes, state and federal taxes on net income levied or expected to be levied by the federal or state government;
11. insurance, officers—cost of insurance on officers and key employees of the center when the insurance is not provided to all employees;
12. judgments or settlements of any kind;
13. lobbying costs or political contributions, either directly or through a trade organization;
14. non-client entertainment;
15. non-Medicaid related care costs—costs allocated to portions of a center that are not licensed as the reporting ADHC or are not certified to participate in Title XIX;
16. officers' life insurance with the center or owner as beneficiary;
17. payments to the parent organization or other related party;
18. penalties and sanctions—penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, the Internal Revenue Service or the State Tax Commission; insufficient funds charges;
19. personal comfort items; and
20. personal use of vehicles.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9117. Audits

A. Each provider shall file an annual center cost report and, if applicable, a central office cost report.

B. The provider shall be subject to financial and compliance audits.

C. All providers who elect to participate in the Medicaid Program shall be subject to audit by state or federal

regulators or their designees. Audit selection shall be at the discretion of the department.

1. The department conducts desk reviews of all of the cost reports received and also conducts on-site audits of provider cost reports.

2. The records necessary to verify information submitted to the department on Medicaid cost reports, including related-party transactions and other business activities engaged in by the provider, must be accessible to the department's audit staff.

D. In addition to the adjustments made during desk reviews and on-site audits, the department may exclude or adjust certain expenses in the cost report data base in order to base rates on the reasonable and necessary costs that an economical and efficient provider must incur.

E. The center shall retain such records or files as required by the department and shall have them available for inspection for five years from the date of service or until all audit exceptions are resolved, whichever period is longer.

F. If a center's audit results in repeat findings and adjustments, the department may:

1. withhold vendor payments until the center submits documentation that the non-compliance has been resolved;
2. exclude the provider's cost from the database used for rate setting purposes; and
3. impose civil monetary penalties until the center submits documentation that the non-compliance has been resolved.

G. If the department's auditors determine that a center's financial and/or census records are unauditible, the vendor payments may be withheld until the center submits auditable records. The provider shall be responsible for costs incurred by the department's auditors when additional services or procedures are performed to complete the audit.

H. Vendor payments may also be withheld under the following conditions:

1. a center fails to submit corrective action plans in response to financial and compliance audit findings within 15 days after receiving the notification letter from the department; or

2. a center fails to respond satisfactorily to the department's request for information within 15 days after receiving the department's notification letter.

I. The provider shall cooperate with the audit process by:

1. promptly providing all documents needed for review;
2. providing adequate space for uninterrupted review of records;
3. making persons responsible for center records and cost report preparation available during the audit;
4. arranging for all pertinent personnel to attend the closing conference;
5. insuring that complete information is maintained in client's records;
6. developing a plan of correction for areas of noncompliance with state and federal regulations immediately after the exit conference time limit of 30 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9119. Exclusions from the Database

A. The following providers shall be excluded from the database used to calculate the rates:

1. providers with disclaimed audits; and
2. providers with cost reports for periods other than a 12-month period.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§9121. Provider Reimbursement

A. Cost Determination Definitions

Adjustment Factor—computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

Base Rate—calculated in accordance with §9121.B.5, plus any base rate adjustments granted in accordance with §9121.B.7 which are in effect at the time of calculation of new rates or adjustments.

Base Rate Components—the base rate is the summation of the following:

- a. direct care;
- b. care related costs;
- c. administrative and operating costs; and
- d. property costs.

Indices—

a. CPI, All Items—the Consumer Price Index for All Urban Consumers-South Region (All Items line) as published by the United States Department of Labor.

b. CPI, Medical Services—the Consumer Price Index for All Urban Consumers-South Region (Medical Services line) as published by the United States Department of Labor.

B. Rate Determination

1. The base rate is calculated based on the most recent audited or desk reviewed cost for all ADHC providers filing acceptable full year cost reports.

2. Audited and desk reviewed costs for each component are ranked by center to determine the value of each component at the median.

3. The median costs for each component are multiplied in accordance with §9121.B.4 then by the appropriate economic adjustment factors for each successive year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate economic adjustment factors, unless they are adjusted as provided in §9121.B.7 below. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

4. The inflated median shall be increased to establish the base rate median component as follows.

a. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

b. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

c. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

5. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

6. Formulae. Each median cost component shall be calculated as follows.

a. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

i. For dates of service on or after February 9, 2007, and extending until the ADHC rate is rebased using a cost report that begins after July 1, 2007, the center-specific direct care rate will be increased by \$1.11 to include a direct care service worker wage enhancement. It is the intent that this wage enhancement be paid to the direct care service workers.

b. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

c. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI-All Items index for December of the year preceding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

d. Property Cost Component. The property per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

7. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of five percent or more, the rate may be changed. The department will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The department may initiate a rate change without a request to do so. Changes to the rates may be temporary adjustments or base rate adjustments as described below.

a. Temporary Adjustments. Temporary adjustments do not affect the base rate used to calculate new rates.

i. Changes Reflected in the Economic Indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the indices, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

ii. Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the bureau's review and approval of costs prior to reimbursement.

b. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

8. Provider Specific Adjustment. When services required by these provisions are not made available to the recipient by the provider, the department may adjust the prospective payment rate of that specific provider by an amount that is proportional to the cost of providing the service. This adjustment to the rate will be retroactive to the date that is determined by the department that the provider last provided the service and shall remain in effect until the department validates, and accepts in writing, an affidavit that the provider is then providing the service and will continue to provide that service.

C. Cost Settlement. The direct care cost component shall be subject to cost settlement. The direct care floor shall be equal to 90 percent of the median direct care rate component trended forward for direct care services (plus 90 percent of any direct care incentive added to the rate). The Medicaid Program will recover the difference between the direct care floor and the actual direct care amount expended. If a provider receives an audit disclaimer, the cost settlement for that year will be based on the difference between the direct care floor and the lowest direct care per diem of all facilities in the most recent audited and/or desk reviewed database trended forward to the rate period related to the disclaimer.

D. Support Coordination Services Reimbursement. Support coordination services previously provided by ADHC providers and included in the rate, including the Minimum Data Set Home Care (MDS/HC), the social

assessment, the nursing assessment, the CPOC and home visits will no longer be the responsibility of the ADHC provider. Support coordination services shall be provided as a separate service covered in the waiver. As a result of the change in responsibilities, the rate paid to providers shall be adjusted accordingly.

1. Effective January 1, 2009, the rate paid to ADHC providers on December 31, 2008 shall be reduced by \$4.67 per day which is the cost of providing support coordination services separately.

2. This rate reduction will extend until such time that the ADHC provider's rate is rebased using cost reports that do not reflect the cost of delivering support coordination services.

E. Effective for dates of service on or after August 1, 2010, the reimbursement rate for ADHC services provided in the EDA Waiver shall be reduced by 2 percent of the rates in effect on July 31, 2010.

F. Effective for dates of service on or after April 1, 2011, the reimbursement rate for ADHC services provided in the EDA Waiver shall be reduced by 2 percent of the rates in effect on March 31, 2011.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services
Waivers—Elderly and Disabled Adults
Reimbursement Rate Reduction**

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
New Opportunities Waiver
Reimbursement Rate Reduction
(LAC 50:XXI.14301)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$327,457 for FY 10-11, \$691,893 for FY 11-12 and \$716,810 for FY 12-13. It is anticipated that \$820 (\$410 SGF and \$410 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$970,721 for FY 10-11, \$1,433,738 for FY 11-12 and \$1,472,590 for FY 12-13. It is anticipated that \$410 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule, which continues the provisions of the November 20, 2010 and December 1, 2010 emergency rules, amends the provisions governing the mental health rehabilitation program to terminate the coverage of Parent/Family Intervention (Intensive) (PFII) services, amend the provisions governing medical necessity for MHR services in order to establish continued treatment criteria and reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$1,298,998 for FY 10-11, \$2,125,631 for FY 11-12 and \$2,189,400 for FY 12-13.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to mental health rehabilitation providers. The reduction in payments may adversely impact the financial standing of mental health rehabilitation providers and could possibly cause a reduction in employment opportunities.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the New Opportunities Waiver (NOW) to reduce the reimbursement rates paid for NOW services (*Louisiana Register*, Volume 36, Number 6). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the New Opportunities Waiver to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8).

Due to a continuing budgetary shortfall, the department now proposes to amend the provisions governing the reimbursement methodology for the New Opportunities Waiver to further reduce the reimbursement rates paid for waiver services. This proposed Rule is also being promulgated to continue the provisions of the August 1, 2010 Emergency Rule.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers**

Subpart 11. New Opportunities Waiver

**Chapter 143. Reimbursement
§14301. Reimbursement Methodology**

A. - I. ...

J. Effective for dates of service on or after August 1, 2010, the reimbursement rates for New Opportunity Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

Don Gregory
Medicaid Director
1012#111

Robert E. Hosse
Staff Director
Legislative Fiscal Office

1. The following services shall be excluded from the rate reduction:

- a. environmental accessibility adaptations;
- b. specialized medical equipment and supplies;
- c. personal emergency response systems;
- d. one-time transitional expenses; and
- e. individualized and family support services-night and shared night.

K. Effective for dates of service on or after April 1, 2011, the reimbursement rates for New Opportunity Waiver services shall be reduced by 2 percent of the rates in effect on March 30, 2011.

1. The following services shall be excluded from the rate reduction:

- a. environmental accessibility adaptations;
- b. specialized medical equipment and supplies;
- c. personal emergency response systems;
- d. one-time transitional expenses; and
- e. individualized and family support services-night and shared night.

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 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), amended LR 36:1247 (June 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—New Opportunities Waiver—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$1,799,374 for FY 10-11, \$4,586,333 for FY 11-12 and \$4,751,498 for FY 12-13. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$5,330,084 for FY 10-11, \$9,503,785 for FY 11-12 and \$9,761,324 for FY 12-13. It is anticipated that \$205 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the August 1, 2010 emergency rule and amends the provisions governing the reimbursement methodology for the New Opportunities Waiver (NOW) to further reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$7,129,868 for FY 10-11, \$14,090,118 for FY 11-12 and \$14,512,822 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made for NOW services. The reduction in payments may adversely impact the financial standing of waiver providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#110

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing and

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers Supports Waiver Reimbursement Rate Reduction (LAC 50:XXI.6101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for Supports Waiver services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 10). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for Supports Waiver services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XXI.6101 as a result of the promulgation of the October 20, 2010 final Rule governing the Supports Waiver (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department now proposes to amend the provisions governing the reimbursement methodology for the Supports Waiver to further reduce the reimbursement rates. This proposed Rule is also being promulgated to continue the provisions of the November 20, 2010 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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement Methodology

§6101. Reimbursement Methodology

A. - K.1. ...

L. Effective for dates of service on or after August 1, 2010, the reimbursement rates for Supports Waiver services shall be reduced by 2 percent of the rates on file as of July 31, 2010.

1. Support coordination services and personal emergency response system services shall be excluded from the rate reduction.

M. Effective for dates of service on or after April 1, 2011, the reimbursement rates for Supports Waiver services shall be reduced by 2 percent of the rates on file as of March 31, 2011.

1. Support coordination services and personal emergency response system services shall be excluded from the rate reduction.

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, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services
Waivers—Supports Waiver
Reimbursement Rate Reduction**

**NOTICE OF INTENT
Department of Health and Hospitals
Bureau of Health Services Financing**

Home Health Program
Extended Nursing Services
Reimbursement Rate Reduction
(LAC 50:XIII.701)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$58,412 for FY 10-11, \$195,214 for FY 11-12 and \$202,244 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$173,335 for FY 10-11, \$404,522 for FY 11-12 and \$415,484 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the November 20, 2010 emergency rule and amends the provisions governing the reimbursement methodology for the Supports Waiver to further reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$232,075 for FY 10-11, \$599,736 for FY 11-12 and \$617,728 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made for Supports Waiver services. The reduction in payments may adversely impact the financial standing of waiver providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#109

Robert E. Hosse
Staff Director
Legislative Fiscal Office

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 amended the provisions governing the reimbursement methodology for nursing services covered in the Home Health Program to increase the reimbursement rates paid for extended nursing services (*Louisiana Register*, Volume 34, Number 4).

Due to a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing services covered in the Home Health Program in order to reduce the reimbursement rates paid for extended nursing services (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 1, 2010 Emergency Rule.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XIII. Home Health
Subpart 1. Home Health Services
Chapter 7. Reimbursement Methodology
§701. Nursing and Home Health Aide Services**

A. - B.3. ...

C. Effective for dates of service on or after December 1, 2010, the reimbursement rates for extended nursing services shall be reduced by 2 percent of the rates in effect on November 30, 2010.

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 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2281 (October 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home Health Program—Extended Nursing Services—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$78,871 for FY 10-11, \$209,964 for FY 11-12 and \$217,525 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$233,933 for FY 10-11, \$435,088 for FY 11-12 and \$446,878 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent

(in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the December 1, 2010 emergency rule, amends the provisions governing the Home Health Program to reduce the reimbursement rates paid for extended nursing services (approximately 331,590 service units). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$313,132 for FY 10-11, \$645,052 for FY 11-12 and \$664,403 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to home health providers. The reduction in payments may adversely impact the financial standing of these providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#108

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Methodology
(LAC 50:V.Chapter 7, 953, 955, 959 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 7 and to amend §§953, 955, 959 and 967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 adopted provisions which established a prospective reimbursement methodology for inpatient hospital services (*Louisiana Register*, Volume 20, Number 6). These provisions included the establishment of general and specialized peer group per

diem rates, level of care criteria and staffing requirements for certain resource intensive inpatient services and an appeals procedure for adjustment of rate components.

As a result of a budgetary shortfall in state fiscal year (SFY) 2010, the department amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates for inpatient hospital services rendered by non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 11). The November 20, 2010 Rule also amended the reimbursement methodology for inpatient hospital services to establish a Medicaid upper payment limit financing mechanism to provide supplemental payments to hospitals for providing healthcare services to low income and needy patients.

As a result of a budgetary shortfall in SFY 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule also amended the provisions governing the appeals procedure that address the criteria for qualifying loss. The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:V.953, §955, §959 and §967 as a result of the promulgation of the November 20, 2010 final Rule governing inpatient hospital services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 7. Prospective Reimbursement

Subchapter A. Appeals Procedure

§701. Request for Administrative Review

A. Any hospital seeking an adjustment to its rate, shall submit a written request for administrative review to the Medicaid director (hereafter referred to as director) within 30 days after receipt of the letter notifying the hospital of its rates.

1. The receipt of the letter notifying the hospital of its rates shall be deemed to be 5 days from the date of the letter.

2. The time period for requesting an administrative review may be extended upon written agreement between the department and the hospital.

B. The department will acknowledge receipt of the written request within 30 days after actual receipt. Additional documentation may be requested from the hospital as may be necessary for the director to render a decision. The director shall issue a written decision upon the hospital's request for a rate adjustment within 90 days after receipt of all additional documentation or information requested.

C. Any hospital seeking an adjustment to its rate, must specify all of the following:

1. the nature of the adjustment sought;
2. the amount of the adjustment sought; and
3. the reasons or factors that the hospital believes justify an adjustment.

D. Any request for an adjustment must include an analysis demonstrating the extent to which the hospital is incurring or expects to incur a qualifying loss in providing covered services to Medicaid and indigent patients.

1. For purposes of these provisions, qualifying loss shall mean that amount by which the hospital's allowable costs (excluding disproportionate share payment adjustments) exceed the Medicaid reimbursement implemented pursuant to these provisions.

2. "Cost" when used in the context of allowable shall mean a hospital's costs incurred in providing covered inpatient services to Medicaid and indigent patients, as calculated in the relevant definitions governing cost reporting.

E. The hospital will not be required to present an analysis of its qualifying loss where the basis for its appeal is limited to a claim that:

1. the rate-setting methodology or criteria for classifying hospitals or hospital claims under the State Plan were incorrectly applied;

2. that incorrect or incomplete data or erroneous calculations were used in establishment of the hospital rates; or

3. the hospital had incurred additional costs because of a catastrophe that meets certain conditions.

F. Except in cases where the basis for the hospital's appeal is limited to a claim that rate-setting methodologies or principles of reimbursement established under the reimbursement plan were incorrectly applied, or that the incorrect or incomplete data or erroneous calculations were in the establishment of the hospital's rate, the department will not award additional reimbursement to a hospital, unless the hospital demonstrates that the reimbursement it receives based on its prospective rate is 70 percent or less of the allowable costs it incurs in providing Medicaid patients care and services that conform to the applicable state and federal laws of quality and safety standards.

1. The department will not increase a provider's rate to more than 105 percent of the peer group rate.

G. In cases where the rate appeal relates to an unresolved dispute between the hospital and its Medicare fiscal intermediary as to any cost reported in the hospital's base year cost report, the director will resolve such disputes for purposes of deciding the request for administrative review.

H. The following matters will not be subject to appeal:

1. the use of peer grouped rates;

2. the use of teaching, non-teaching and bed-size as criteria for hospital peer groups;

3. the use of approved graduate medical education and intern and resident full time equivalents as criteria for major teaching status;

4. the use of fiscal year 1991 medical education costs to establish a hospital-specific medical education component of each teaching hospital's prospective rate;

5. the application of inflationary adjustments contingent on funding appropriated by the legislature;

6. the criteria used to establish the levels of neonatal intensive care;

7. the criteria used to establish the levels of pediatric intensive care;

8. the methodology used to calculate the boarder baby rates for nursery;

9. the use of hospital specific costs for transplant per diem limits;

10. the criteria used to identify specialty hospital peer groups; and

11. the criteria used to establish the level of burn care.

I. The hospital shall bear the burden of proof in establishing facts and circumstances necessary to support a rate adjustment. Any costs that the provider cites as a basis for relief under this provision must be calculable and auditable.

J. The department may award additional reimbursement to a hospital that demonstrates by clear and convincing evidence that:

1. a qualifying loss has occurred and the hospitals current prospective rate jeopardized the hospital's long-term financial viability; and

2. the Medicaid population served by the hospital has no reasonable access to other inpatient hospitals for the services that the hospital provides and that the hospital contends are under reimbursed; or

3. alternatively, demonstrates that its uninsured care hospital costs exceeds 5 percent of its total hospital costs, and a minimum of \$9,000,000 in uninsured care hospital cost in the preceding 12 month time period and the hospital's uninsured care costs has increased at least 35 percent during a consecutive six month time period during the hospital's latest cost reporting period.

a. For purposes of these provisions, an uninsured patient is defined as a patient that is not eligible for Medicare or Medicaid and does not have insurance.

b. For purposes of these provisions, uninsured care costs are defined as uninsured care charges multiplied by the cost to charge ratios by revenue code per the last filed cost report, net of payments received from uninsured patients.

i. The increase in uninsured care costs must be a direct result of a permanent or long term (no less than six months) documented change in services that occurred at a state owned and operated hospital located less than eight miles from the impacted hospital.

ii. For the purpose of this Rule, if a hospital has multiple locations of service, each location shall measure uninsured care costs separately and qualify each location as an individual hospital. Rate adjustments awarded under this provision will be determined by the secretary of the department and shall not exceed 5 percent of the applicable per diem rate.

K. In determining whether to award additional reimbursement to a hospital that has made the showing required, the director shall consider one or more of the following factors and may take any of these actions.

1. The director shall consider whether the hospital has demonstrated that its unreimbursed costs are generated by factors generally not shared by other hospitals in the hospital's peer group. Such factors may include, but are not

limited to extraordinary circumstances beyond the control of the hospital and improvements required to comply with licensing or accrediting standards. Where it appears from the evidence presented that the hospital's costs are controllable through good management practices or cost containment measures or that the hospital has through advertisement to the general public promoted the use of high costs services that could be provided in a more cost effective manner, the director may deny the request for rate adjustment.

2. The director may consider, and may require the hospital to provide financial data, including but not limited to financial ratio data indicative of the hospital's performance quality in particular areas of hospital operation.

3. The director shall consider whether the hospital has taken every reasonable action to contain costs on a hospital-wide basis. In making such a determination, the director may require the hospital to provide audited cost data or other quantitative data including, but not limited to:

- a. occupancy statistics;
- b. average hourly wages paid;
- c. nursing salaries per adjusted patient day;
- d. average length of stay;
- e. cost per ancillary procedure;
- f. average cost per meal served;
- g. average cost per pound of laundry;
- h. average cost per pharmacy prescription;
- i. housekeeping costs per square foot;
- j. medical records costs per admission;
- k. full-time equivalent employees per occupied bed;
- l. age of receivables;
- m. bad debt percentage;
- n. inventory turnover rate; and
- o. information about actions that the hospital has

taken to contain costs.

4. The director may also require that an onsite operational review/audit of the hospital be conducted by the department or its designee.

L. In awarding relief under this provision, the director shall:

1. make any necessary adjustments so as to correctly apply the rate-setting methodology, to the hospital submitting the appeal, or to correct calculations, data errors or omissions; or

2. increase one or more of the hospital's rates by an amount that can reasonably be expected to ensure continuing access to sufficient inpatient hospital services of adequate quality for Medicaid patients served by the hospital.

M. The following decisions by the director shall not result in any change in the peer group rates:

1. the decision to:
 - a. recognize omitted, additional or increased costs incurred by any hospital;
 - b. adjust the hospital rates; or
 - c. otherwise award additional reimbursement to any hospital.

N. Hospitals that qualify under this provision must document their continuing eligibility at the beginning of each subsequent state fiscal year. Rate adjustments granted under this provision shall be effective from the first day of the rate period to which the hospital's appeal relates. However, no retroactive adjustments will be made to the rate or rates that were paid during any prior rate period.

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, Bureau of Health Services Financing, LR 37:

§703. Administrative Appeal and Judicial Review

A. If the director's decision is adverse to the hospital, the hospital may appeal the director's decision to the Bureau of Appeals or its successor. The appeal must be lodged within 30 days of receipt of the written decision of the director. The receipt of the decision of the director shall be deemed to be five days from the date of the decision. The administrative appeal shall be conducted in accordance with the Louisiana Administrative Procedure Act (APA). The Bureau of Appeals shall submit a recommended decision to the secretary of the department. The secretary will issue the final decision of the department.

B. Judicial review of the secretary's decision shall be in accordance with the APA and shall be filed in the nineteenth Judicial District Court.

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, Bureau of Health Services Financing, LR 37:

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - O.1. ...

P. Effective for dates of service on or after August 1, 2010, the inpatient per diem rate paid to acute care hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

Q. Effective for dates of service on or after December 1 2010, the inpatient per diem rate paid to acute care hospitals shall be reduced by 2 percent of the per diem rate on file as of November 30, 2010.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

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 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552 (July 2010), LR 36:2496 (November 2010), LR 37:

§955. Long Term Hospitals

A. - F. ...

G. Effective for dates of service on or after August 1, 2010, the inpatient per diem rate paid to long term hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

H. Effective for dates of service on or after December 1, 2010, the inpatient per diem rate paid to long term hospitals shall be reduced by 2 percent of the per diem rate on file as of November 30, 2010.

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: 34:876 (May 2008), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2496 (November 2010), LR 37:

§959. Inpatient Psychiatric Hospital Services

A. - H. ...

I. Effective for dates of service on or after August 1, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be reduced by 4.6 percent of the per diem rate on file as of July 31, 2010.

J. Effective for dates of service on or after December 1, 2010, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be reduced by 2 percent of the per diem rate on file as of November 30, 2010.

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 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2497 (November 2010), LR 37:

§967. Children's Specialty Hospitals

D. - E. ...

1. Medicaid supplemental payments related to high cost Medicaid and graduate medical education supplemental payments shall be included as an interim Medicaid inpatient payment in the determination of cost settlement amounts on the filed cost report.

F. Effective for dates of service on or after February 3, 2010, the per diem rates as calculated per §967.A.-C above shall be reduced by 5 percent. Effective for dates of service on or after December 1, 2010, final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A-C for the period, multiplied by 95 percent of the target rate per discharge or per diem limitation as specified per §967.A-C for the period.

G. Effective for dates of service on or after August 1, 2010, the per diem rates as calculated per §967.A-C above shall be reduced by 4.6 percent. Effective for dates of service on or after December 1, 2010, final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A-C for the period, multiplied by 90.63 percent of the target rate per discharge or per diem limitation as specified per §967.A-C for the period.

H. Effective for dates of service on or after December 1, 2010, the per diem rates as calculated per §967.A-C above shall be reduced by 2 percent. Final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A-C for the period, multiplied by 88.82 percent of the target rate per discharge or per diem limitation as specified per §967.A-C for the period.

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, Bureau of Health Services Financing, LR 36:2562 (November 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$6,526,216 for FY 10-11, \$13,085,309 for FY 11-12 and \$13,556,540 for FY 12-13. It is anticipated that \$1,476 (\$738 SGF and \$738 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$19,331,872 for FY 10-11, \$27,115,332 for FY 11-12 and \$27,850,120 for FY 12-13. It is anticipated that \$738 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first

six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the November 20, 2010 and December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and amends the provisions governing the appeals procedure that address the criteria for qualifying loss. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$25,859,564 for FY 10-11, \$40,200,641 for FY 11-12 and \$41,460,660 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to non-rural, non-state hospitals. The reduction in payments may adversely impact the financial standing of hospitals and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#107

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Developmental Disabilities
Reimbursement Rate Reduction
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of the allocation of additional funds by the legislature during the 2009 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental

disabilities (ICFs/DD) to increase the per diem rates (*Louisiana Register*, Volume 36, Number 7).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-state ICFs/DD to reduce the per diem rates (*Louisiana Register*, Volume 36, Number 8). In August 2010, the department also amended the provisions governing the reimbursement methodology for non-state ICFs/DD to restore the per diem rates paid to private providers who have downsized large facilities to less than 35 beds and incurred unusually high capital costs as a result of the downsizing (*Louisiana Register*, Volume 36, Number 8).

Due to a continuing budgetary shortfall in state fiscal year 2011, the department now proposes to amend the provisions governing the reimbursement methodology for non-state ICFs/DD to further reduce the per diem rates. This proposed Rule is also being promulgated to continue the provisions of the August 1, 2010 Emergency Rules.

Taking the proposed per diem rate reduction into consideration, the department has carefully reviewed the proposed rates 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) intermediate care facility services for persons with developmental disabilities under the state plan are available at least to the extent that they are available to the general population in the state.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32903. Rate Determination

A. - J. ...

K. Effective for dates of service on or after August 1, 2010, the per diem rates for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD) shall be reduced by 2 percent of the per diem rates on file as of July 31, 2010.

1. Effective for dates of service on or after December 20, 2010, non-state ICFs/DD which have downsized from over 100 beds to less than 35 beds prior to December 31, 2010 shall be excluded from the August 1, 2010 rate reduction.

L. Effective for dates of service on or after August 1, 2010, the per diem rates for non-state ICFs/DD which have downsized from over 100 beds to less than 35 beds prior to December 31, 2010 shall be restored to the rates in effect on January 1, 2009.

M. Effective for dates of service on or after April 1, 2011, the per diem rates for non-state ICFs/DD shall be reduced by 5.8 percent of the per diem rates on file as of March 31, 2011.

1. Non-State ICFs/DD which have downsized from over 100 beds to less than 35 beds prior to December 31, 2010 shall be excluded from the April 1, 2011 rate reduction.

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 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for Persons—with Developmental Disabilities—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$1,371,379 for FY 10-11, \$5,328,452 for FY 11-12 and \$5,520,342 for FY 12-13. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$4,062,378 for FY 10-11, \$11,041,600 for FY 11-12 and \$11,340,812 for FY 12-13. It is anticipated that \$205 will be

expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the August 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD) to reduce the reimbursement rates and to restore the per diem rates paid to private providers who have downsized large facilities and incurred unusually high capital costs as a result of the downsizing. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$5,434,167 for FY 10-11, \$16,370,052 for FY 11-12 and \$16,861,154 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to non-state ICFs/DD. The reduction in payments may adversely impact the financial standing of these facilities and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#106

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Laboratory and Radiology Services
Reimbursement Rate Reduction
(LAC 50:XIX.4329 and 4334-4337)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XIX.4329 and §§4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule also repealed the provisions governing the reimbursement for outpatient hospital laboratory services from this Chapter as these provisions have been amended and repromulgated in LAC 50:V.Chapter 57. The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XIX.4329 and §§4334-4337 as a result of the promulgation of the November 20, 2010 final Rule governing laboratory and radiology services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and Radiology

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - H. ...

I. Effective for dates of service on or after August 1, 2010, the reimbursement rates for laboratory services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

J. Effective for dates of service on or after December 1, 2010, the reimbursement rates for laboratory services shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

§4334. Radiology Services

A. - G. ...

H. Effective for dates of service on or after August 1, 2010, the reimbursement rates for radiology services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

I. Effective for dates of service on or after December 1, 2010, the reimbursement rates for radiology services shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

§4335. Portable Radiology Services

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rates for portable radiology services shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

G. Effective for dates of service on or after December 1, 2010, the reimbursement rates for portable radiology services shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 30:1026 (May 2004), amended LR 35:1898 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

§4337. Radiation Therapy Centers

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 4.6 percent of the fee amounts on file as of July 31, 2010.

G. Effective for dates of service on or after December 1, 2010, the reimbursement rates for radiology services provided by radiation therapy centers shall be reduced by 2 percent of the fee amounts on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118,

Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Laboratory and Radiology Services—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$1,187,612 for FY 10-11, \$2,256,678 for FY 11-12 and \$2,337,946 for FY 12-13. It is anticipated that \$492 (\$246 SGF and \$246 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$3,518,149 for FY 10-11, \$4,676,280 for FY 11-12 and \$4,803,001 for FY 12-13. It is anticipated that \$246 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the November 20, 2010 and the December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for laboratory and radiology services to further reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$4,706,253 for FY 10-11, \$6,932,958 for FY 11-12 and \$7,140,947 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to

laboratory and radiology services providers. The reduction in payments may adversely impact the financial standing of these providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#105

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Emergency Ambulance Services
Reimbursement Rate Reduction
(LAC 50:XXVII.325 and 353)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11).

Due to a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for emergency medical transportation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 1, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. - G. ...

H. Effective for dates of service on or after December 1, 2010, the reimbursement rates for emergency ambulance transportation services shall be reduced by 2 percent of the rate on file as of November 30, 2010.

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 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), amended LR 36:2564 (November 2010), LR 37:

Subchapter C. Aircraft Transportation

§353. Reimbursement

A. - E. ...

F. Effective for dates of service on or after December 1, 2010, the reimbursement rates for fixed winged and rotor winged emergency air ambulance services shall be reduced by 2 percent of the rate on file as of November 30, 2010.

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 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Transportation Program—Emergency Ambulance Services—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$78,920 for FY 10-11, \$225,104 for FY 11-12 and \$233,210 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule

and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$234,081 for FY 10-11, \$466,458 for FY 11-12 and \$479,099 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the December 1, 2010 emergency rule, amends the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates (approximately 72,000 service units). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$313,329 for FY 10-11, \$691,562 for FY 11-12 and \$712,309 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to emergency medical transportation providers. The reduction in payments may adversely impact the financial standing of emergency medical transportation providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#104

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Medical Transportation Program
Non-Emergency Ambulance Services
Reimbursement Rate Reduction
(LAC 50:XXVII.571)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.571 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010

Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11).

Due to a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 1, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part. XXVII. Medical Transportation Program

**Chapter 5. Non-Emergency Medical Transportation
Subchapter D. Reimbursement**

§571. Non-Emergency Ambulance Transportation

A. - D. ...

E. Effective for dates of service on or after December 1, 2010, the ground mileage and ancillary services reimbursement rates for non-emergency ambulance transportation services shall be reduced by 2 percent of the rate in effect on November 30, 2010.

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 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Transportation Program Non-Emergency Ambulance Services Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$29,782 for FY 10-11, \$80,903 for FY 11-12 and \$83,817 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$88,534 for FY 10-11, \$167,646 for FY 11-12 and \$172,189 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the December 1, 2010 emergency rule, amends the provisions governing the reimbursement methodology for non-emergency ambulance transportation services to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$118,644 for FY 10-11, \$248,549 for FY 11-12 and \$256,006 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to non-emergency ambulance transportation providers. The reduction in payments may adversely impact the financial standing of non-emergency ambulance transportation providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#103

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
Reimbursement Rate Reduction
(LAC 50:XXVII.573)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.573 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XXVII.573 as a result of the promulgation of the November 20, 2010 final Rule governing non-emergency medical transportation services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-emergency medical transportation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to

continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter D. Reimbursement

§573. Non-Emergency, Non-Ambulance

Transportation

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for non-emergency, non-ambulance medical transportation services shall be reduced by 4.5 percent of the rates in effect on July 31, 2010.

1. Friends and family providers are excluded from the rate reduction.

E. Effective for dates of service on or after December 1, 2010, the reimbursement rates for non-emergency, non-ambulance medical transportation services shall be reduced by 2 percent of the rates in effect on November 30, 2010.

1. Friends and family providers are excluded from the rate reduction.

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 34:879 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2565 (November 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Transportation Program—Non-
Emergency Medical Transportation—Reimbursement
Rate Reduction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$115,164 for FY 10-11, \$195,645 for FY 11-12 and \$202,690 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional and appropriated enhanced federal match would be available after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$341,433 for FY 10-11, \$405,414 for FY 11-12 and \$416,400 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the November 20, 2010 and the December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for non-emergency medical transportation (NEMT) services to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$456,925 for FY 10-11, \$601,059 for FY 11-12 and \$619,090 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made for non-emergency medical transportation services. The reduction in payments may adversely impact the financial standing of these providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#102

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Mental Health Rehabilitation Program
Termination of Parent/Family Intervention (Intensive)
Services and Reimbursement Rate Reduction
(LAC 50:XV.335, 501-505 and 901)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:XV.335 and to amend LAC 50:XV.501-505 and §901 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for the Mental Health Rehabilitation (MHR) Program to reduce the reimbursement rates paid for mental health rehabilitation services (*Louisiana Register*, Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which terminated the coverage of Parent/Family Intervention (Intensive) (PFII) services in the MHR Program and amended the provisions governing medical necessity for MHR services in order to establish continued treatment criteria (*Louisiana Register*, Volume 36, Number 8). Recipients receiving PFII services shall be transitioned to comparable services available in the MHR Program. The department promulgated an Emergency Rule which amended the provisions of the August 1, 2010 Emergency Rule to revise the formatting of LAC 50:XV.901 as a result of the promulgation of the November 20, 2010 final Rule governing mental health rehabilitation services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for mental health rehabilitation services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Subchapter C. Optional Services

§335. Parent/Family Intervention (Intensive)

Repealed.

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 31:1085 (May 2005), amended LR 32:2067 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2758 (December 2009), repealed LR 37:

Chapter 5. Medical Necessity Criteria

§501. General Provisions

A. - C.

D. Initially all recipients must meet the medical necessity criteria for diagnosis, disability, duration and level of care. MHR providers shall rate recipients on the CALOCUS/LOCUS at 90 day intervals, or at an interval otherwise specified by the bureau, and these scores and supporting documentation must be submitted to the bureau or its designee upon request. Ongoing services require authorization which may occur every 90 days or at any interval requested by the bureau or its designee, based on progress towards goals, individual needs, and level of care requirements which are consistent with the medical necessity criteria.

E. ...

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 31:1086 (May 2005) amended LR 32:2067 (November 2006), LR 34:1914 (September 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§503. Adult Criteria for Services

A. - A.3.d.Note ...

B. Criteria for Continued Treatment. Continuation of MHR treatment is medically necessary for individuals who meet all of the following criteria:

1. clinical evidence indicates a persistence of the problems that necessitated the provision of MHR services;

2. clinical evidence indicates that a less intensive level of care would result in exacerbation of the symptoms of the individual's mental disorder and clinical deterioration;

3. the ISRP has been developed, implemented and updated based on the individual recipient's clinical condition and response to treatment, as well as the strengths and availability of natural supports, with realistic goals and objectives clearly stated;

4. the recipient is actively engaged in treatment as evidenced by regular participation in services as scheduled;

5. progress is evident that the individual's disorder can be expected to improve significantly through medically necessary, appropriate therapy and that the individual is able to benefit from the therapy provided; and

6. there is clinical evidence of symptom improvement. If there has been no improvement, the ISRP may be reviewed and the frequency, amount or duration of services may be adjusted to a clinically appropriate level as determined by the bureau.

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, amended LR 32:2068 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§505. Child/Adolescent Criteria for Services

A. - A.3.d. ...

B. Criteria for Continued Treatment. Continuation of MHR treatment is medically necessary for children/youth who meet all of the following criteria:

1. clinical evidence indicates a persistence of the problems that necessitated the provision of MHR services;
2. clinical evidence indicates that a less intensive level of care would result in exacerbation of the symptoms of the child's mental or behavioral disorder and clinical deterioration;
3. the ISRP has been developed, implemented and updated based on the individual child's clinical condition and response to treatment, as well as the strengths and availability of natural supports, with realistic goals and objectives clearly stated;
4. the recipient and family are actively engaged in treatment as evidenced by regular participation in services as scheduled;
5. progress is evident that the child's mental or behavioral disorder can be expected to improve significantly through medically necessary, appropriate therapy and that the child is able to benefit from the therapy provided; and
6. there is clinical evidence of symptom improvement.

If there has been no improvement, the ISRP may be reviewed and the frequency, amount or duration of services may be adjusted to a clinically appropriate level as determined by the bureau.

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 32:2068 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Chapter 9. Reimbursement

§901. Reimbursement Methodology

A. - F. ...

G. Effective for dates of service on or after August 1, 2010, Medicaid reimbursement shall be terminated for parent/family intervention (intensive) services.

H. Effective for dates of service on or after December 1, 2010, the reimbursement rates for Mental Health Rehabilitation services shall be reduced by 3.3 percent of the rates on file as of November 30, 2010.

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 31:1091 (May 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 36:1249 (June 2010), LR 36:2565 (November 2010), LR:37

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S.

49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Termination of Parent/Family Intervention (Intensive) Services and Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$327,457 for FY 10-11, \$691,893 for FY 11-12 and \$716,810 for FY 12-13. It is anticipated that \$820 (\$410 SGF and \$410 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$970,721 for FY 10-11, \$1,433,738 for FY 11-12 and \$1,472,590 for FY 12-13. It is anticipated that \$410 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the November 20, 2010 and December 1, 2010 emergency rules,

amends the provisions governing the mental health rehabilitation program to terminate the coverage of Parent/Family Intervention (Intensive) (PFII) services, amend the provisions governing medical necessity for MHR services in order to establish continued treatment criteria and reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$1,298,998 for FY 10-11, \$2,125,631 for FY 11-12 and \$2,189,400 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to mental health rehabilitation providers. The reduction in payments may adversely impact the financial standing of mental health rehabilitation providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#101

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Multi-Systemic Therapy Reimbursement Rate Reduction (LAC 50:XV.25701)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.25701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing multi-systemic therapy (MST) to reduce the reimbursement rates and to establish prior authorization requirements (*Louisiana Register*; Volume 36, Number 11). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for MST services to reduce the reimbursement rates (*Louisiana Register*; Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XV.25701 as a result of the promulgation of the November 20, 2010 final Rule governing MST services (*Louisiana Register*; Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for MST services to further reduce the reimbursement rates (*Louisiana Register*; Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 17. Multi-Systemic Therapy

Chapter 257. Reimbursement

§25701. Reimbursement Methodology

A. - C. ...

D. Effective for dates of service on or after August 1, 2010, the reimbursement rates for multi-systemic therapy services shall be reduced by 2.63 percent of the rates on file as of July 31, 2010.

E. Effective for dates of service on or after December 1, 2010, the reimbursement rates for multi-systemic therapy services shall be reduced by 3 percent of the rates on file as of November 30, 2010.

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, Bureau of Health Services financing, LR 35:247 (February 2009), amended LR 36:1250 (June 2010), LR 36:2565 (November 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Multi-Systemic
Therapy—Reimbursement Rate Reduction**

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Nursing Facilities—Reimbursement Rate Reduction
(LAC 50:VII.1305)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$163,386 for FY 10-11, \$327,478 for FY 11-12 and \$339,272 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$484,265 for FY 10-11, \$678,600 for FY 11-12 and \$696,989 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule, which continues the provisions of the November 20, 2010 and the December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for multi-systemic therapy (MST) services to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$647,979 for FY 10-11, \$1,006,078 for FY 11-12 and \$1,036,261 for FY 12-13.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made for multi-systemic therapy services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#100

Robert E. Hosse
Staff Director
Legislative Fiscal Office

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.1305 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.

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department amended the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rate paid to non-state nursing facilities (*Louisiana Register*, Volume 36, Number 11). The department amended the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the per diem rates which were increased on July 1, 2010 as a result of the FY 2009-10 rebasing (*Louisiana Register*, Volume 36, Number 3). The March 20, 2010 Rule also clarified the provisions governing the reimbursement methodology for state-owned or operated nursing facilities and non-state, government-owned or operated nursing facilities. In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year (SFY) 2011, the department promulgated an Emergency Rule which further reduced the per diem rates paid to non-state nursing facilities (*Louisiana Register*, Volume 36, Number 7). In compliance with Act 244 of the 2009 Regular Session of the Louisiana Legislature, the department amended the provisions governing the reimbursement methodology for nursing facilities to adjust the periodic rebasing of the nursing facility rates (*Louisiana Register*, Volume 36, Number 8).

The department promulgated an Emergency Rule which amended the provisions of the July 1, 2010 Emergency Rule governing the SFY 2011 rate reduction to revise the formatting of LAC 50:VII.1305 as a result of the promulgation of the July 20, 2010 and the August 20, 2010 final Rules (*Louisiana Register*, Volume 36, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1305. Rate Determination

A. - F. ...

G. Effective for dates of service on or after July 1, 2010, the per diem rate paid to non-state nursing facilities shall be reduced by an amount equal to 4.8 percent of the non-state

owned nursing facilities statewide average daily rate on file as of July 1, 2010 until such time as the rate is rebased.

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 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 37:

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$8,341,124 for FY 10-11, \$12,087,056 for FY 11-12 and \$12,522,340 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately

\$24,706,442 for FY 10-11, \$25,046,759 for FY 11-12 and \$25,725,490 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the October 20, 2010 emergency rule, amends the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the per diem rates (approximately 6,550,000 nursing home days per year). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$33,047,894 for FY 10-11, \$37,133,815 for FY 11-12 and \$38,247,830 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to nursing facilities. The reduction in payments may adversely impact the financial standing of nursing facilities and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#098

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities

Transition of State-Owned or Operated Nursing Facility
(LAC 50: VII.1323)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:VII.1323 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.

Act 933 of the 2010 Regular Session of the Louisiana Legislature authorized and empowered the Department of Health and Hospitals and the commissioner of administration to execute a negotiated lease for the John J. Hainkel, Jr. Home and Rehabilitation Center to the New Orleans Home for the Incurables. In addition, the Act specified the Medicaid per diem rate to be paid for services rendered by the John J. Hainkel, Jr. Home and Rehabilitation Center and the time period that the reimbursement rate would be in effect. In compliance with the directives of Act 933, the department proposes to amend the provisions governing the reimbursement methodology for nursing

facilities to adopt provisions governing the transition of a state-owned or operated nursing facility to a private nursing facility.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1323. Transition of State-Owned or Operated Nursing Facility to a Private Facility

A. A state owned or operated nursing facility that changes ownership (CHOW) in order to transition to a private nursing facility will be exempt from the case-mix direct care and care-related spending floor for a period of 12 months following the effective date of the CHOW under the following conditions.

1. The state-owned or operated facility is located in the DHH administrative region 1; and

2. The change of ownership is the result of a leasing arrangement.

B. Cost Reports

1. The previous owner of the nursing facility must file a closing cost report within 60 days of the CHOW for the time period that spans from the beginning of the facility's cost report period to the date of the CHOW.

2. The initial cost report period following the CHOW will be determined based on the elected fiscal year end of the new facility.

3. The closing and initial cost reports must be filed in accordance with the provisions of §1303, including the filing of all Medicaid supplemental schedules.

C. A capital data survey must be filed with the department within 60 days of the effective date of the CHOW. The capital data survey must include the nursing facility's date of construction, current square footage, and all renovations made since the facility's opening.

D. Rate Determination

1. During the transition period (12 months following the effective date of the change of ownership), the Medicaid reimbursement rate for the transitioned nursing facility shall be the per diem rate on file as of March 19, 2010 for the state-owned or operated facility.

2. The transitioned nursing facility will be transferred to the case-mix reimbursement system at the end of the 12 month transition period.

3. The Medicaid reimbursement rate and direct care/care-related floor shall be calculated in accordance with the provisions of §1305.

a. The direct care/care-related floor will be effective on the date of transition to the case mix reimbursement system.

b. For purposes of this initial floor calculation, direct care and care-related spending will be determined by apportioning cost report period costs based on calendar days.

4. Under the case mix reimbursement methodology, the facility will file cost reports in accordance with the provisions of §1303, including all Medicaid supplemental schedules.

a. If the nursing facility's cost report period overlaps the date of transition to the case mix reimbursement

methodology, the case mix direct care and care-related floor will only be applied to the portion of the cost report period that occurs after the date of transition to case mix.

5. Until the nursing facility has an audited or desk reviewed cost report that is available for use in a case mix rebase in accordance with the provisions of §1305.B, the case mix reimbursement rate components will be based on the following criteria except as noted in Subsection D.6.

a. The facility's acuity as determined from its specific case mix index report for the quarter prior to the effective date of the rate.

b. The direct care and care-related statewide median prices in effect for that period.

i. The statewide direct care and care related price shall be apportioned between the per diem direct care component and the per diem care related component using the nursing facility's most recent non-disclaimed audited or desk reviewed cost report.

ii. The facility-specific percentages will be determined using the methodology described in §1305.D.1.c.

c. The administrative and operating statewide median prices in effect for that period.

d. The capital data for the fair rental value rate component will be calculated from the facility-submitted capital data survey and the occupancy percentage from the most recent non-disclaimed audited or desk reviewed cost report as of the effective date of the rate.

e. The facility's property insurance cost will be calculated from the most recent non-disclaimed audited or desk reviewed cost report as of the rate effective date.

f. The property tax cost will be collected in the form of an interim property tax report specified by the department.

i. The interim property tax report must be filed within 30 days after the beginning of the nursing facility's cost reporting period.

ii. Failure to provide the interim property tax report within the specified time frame will result in a zero dollar reimbursement rate for the property tax rate component.

iii. The facility must continue to file an interim property tax report until the facility is able to produce a non-disclaimed audited or desk reviewed cost report that contains property tax cost.

g. Provider fee and budget adjustments in effect for all other case mix facilities will be applicable.

6. A disclaimed cost report that would otherwise be used in a rebase will result in a rate calculated in accordance with the provisions of §1311 and the provisions contained in Subsection D.3.a.-b and D.4.a will no longer be applicable.

7. If additional data is needed, the department may request that the facility submit Medicaid supplemental cost report schedules for those cost report period year ends for which the facility has not previously submitted Medicaid supplemental schedules.

E. If there is a subsequent CHOW which results in the nursing facility reverting to a state-owned or operated facility, then the reimbursement methodology for a state-owned or operated nursing facility will be reinstated following the effective date of the CHOW and all other provisions of this Section will no longer be applicable.

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, Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 the implementation of this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 for the current employees in the event that current staffing levels are not maintained by the new facility.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facilities—Transition of State-Owned or Operated Nursing Facility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic costs to the state of approximately \$666 for FY 10-11 and estimated programmatic savings of approximately \$115,644 for FY 11-12 and \$419,414 for FY 12-13. It is anticipated that \$656 (\$328 SGF and \$328 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

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 \$1,328 for FY 10-11 and a decrease in revenue collections of approximately \$239,636 for FY 11-12 and \$861,631 for FY 12-

13. It is anticipated that \$328 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule will allow the per diem rate established for a state-owned or operated nursing facility to remain in place for a one year period after the facility has been transitioned to a private nursing facility (applicable for one facility). It is anticipated that implementation of this proposed rule will increase program expenditures in the Medicaid Program by approximately \$1,338 for FY 10-11 and decrease program expenditures by approximately \$355,280 for FY 11-12 and \$1,281,045 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the implementation of this proposed Rule will have any effect on competition. However, it may have an adverse effect on employment in the event that the private nursing facility does not maintain the same staffing levels as the state-owned or operated facility.

Kyle C. Viator
Deputy Medicaid Director
1012#099

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services—Non-Rural, Non-State
Hospitals and Children's Specialty Hospitals
Reimbursement Rate Reduction
(LAC:V.5313, 5317, 5513, 5517,
5713, 5719, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.5313, §5317, §5513, §5517, §5713, §5719, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions

governing the reimbursement methodology for outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 36, Number 9). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing outpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting as a result of the promulgation of the September 20, 2010 final Rule governing outpatient hospital services (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Taking the proposed rate reductions into consideration, the department has carefully reviewed the proposed rates 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) outpatient hospital services and children's specialty hospital services under the State Plan are available at least to the extent that they are available to the general population in the state.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - D. ...

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

F. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:

§5317. Children's Specialty Hospitals

A. - B.1. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement paid to children's specialty

hospitals for outpatient surgery shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

D. Effective for dates of service on or after December 1, 2010, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

1. Final reimbursement shall be 86.15 percent of allowable cost as calculated through the cost report settlement process.

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, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - D. ...

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

F. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:

§5517. Children's Specialty Hospitals

A. - B. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

D. Effective for dates of service on or after December 1, 2010, the reimbursement paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - D. ...

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

F. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:

§5719. Children's Specialty Hospitals

A. - B. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 4.6 percent of the fee schedule on file as of July 31, 2010.

D. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 2 percent of the fee schedule on file as of November 30, 2010.

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, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - D. ...

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

E. Effective for dates of service on or after August 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 4.6 percent of the rates effective as of July 31, 2010. Final reimbursement shall be at 71.13 percent of allowable cost through the cost settlement process.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

F. Effective for dates of service on or after December 1, 2010, the reimbursement paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 2 percent of the rates effective as of November 30, 2010. Final reimbursement shall be at 69.71 percent of allowable cost through the cost settlement process.

1. Small rural hospitals as defined in R.S. 40:1300.143 shall be exempted from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:1250 (June 2010), LR 36:2043 (September 2010), LR 37:

§6119. Children's Specialty Hospitals

A. - B.1. ...

C. Effective for dates of service on or after August 1, 2010, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 4.6 percent of the rates effective as of July 31, 2010.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

D. Effective for dates of service on or after December 1, 2010, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 2 percent of the rates effective as of November 30, 2010.

1. Final reimbursement shall be 86.15 percent of allowable cost as calculated through the cost report settlement process.

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, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Outpatient Hospital Services—Non-Rural, Non-State Hospitals and Children’s Specialty Hospitals—Reimbursement Rate Reduction

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Personal Care Services—Long-Term
Reimbursement Rate Reduction
(LAC 50:XV.12917)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$2,061,930 for FY 10-11, \$3,853,098 for FY 11-12 and \$3,991,857 for FY 12-13. It is anticipated that \$902 (\$451 SGF and \$451 FED) will be expended in FY 10-11 for the state’s administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$6,108,250 for FY 10-11, \$7,984,376 for FY 11-12 and \$8,200,741 for FY 12-13. It is anticipated that \$451 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the November 20, 2010 and the December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for outpatient hospital services to further reduce the reimbursement rates paid to non-rural, non-state hospitals and children’s specialty hospitals. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$8,171,082 for FY 10-11, \$11,837,474 for FY 11-12 and \$12,192,598 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to hospitals for outpatient hospital services. The reduction in payments may adversely impact the financial standing of these hospitals and could possibly cause a reduction in employment opportunities.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XV.12917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the reimbursement methodology for long-term personal care services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 6).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for long-term personal care services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 8).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for long-term personal care services to further reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the August 1, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long-Term Care

§12917. Reimbursement Methodology

A. - E. ...

F. Effective for dates of service on or after August 1, 2010, the reimbursement rate for long-term personal care services shall be reduced by 4.6 percent of the rate on file as of July 31, 2010.

G. Effective for dates of service on or after December 1, 2010, the reimbursement rate for long-term personal care services shall be reduced by 5.8 percent of the rate on file as of November 30, 2010.

Don Gregory
Medicaid Director
1012#097

Robert E. Hosse
Staff Director
Legislative Fiscal Office

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 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), amended by the Bureau of Health Services Financing, LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Personal Care Services—Long-Term; Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$3,136,619 for FY 10-11, \$6,259,589 for FY 11-12 and \$6,485,012 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end

of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$9,290,876 for FY 10-11, \$12,971,100 for FY 11-12 and \$13,322,598 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the August 1, 2010 and December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for long-term personal care services to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$12,427,823 for FY 10-11, \$19,230,689 for FY 11-12 and \$19,807,610 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to personal care services providers. The reduction in payments may adversely impact the financial standing of personal care services providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#096

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Program—Prescription Limit Reduction
(LAC 50:XXIX.113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other

measures as permitted under federal law.” This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing prescription limits in the Pharmacy Benefits Management Program to reduce the number of prescriptions covered by the Medicaid Program within a calendar month for certain recipients (*Louisiana Register*, Volume 35, Number 9).

Due to a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Pharmacy Benefits Management Program to further reduce the number of prescriptions covered by the Medicaid Program within a calendar month (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 1, 2010 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§113. Prescription Limit

A. Effective December 1, 2010, the Department of Health and Hospitals will pay for a maximum of four prescriptions per calendar month for Medicaid recipients.

B. The following federally mandated recipient groups are exempt from the four prescriptions per calendar month limitation:

1. persons under 21 years of age;
2. persons who are residents of long-term care institutions, such as nursing homes and ICF-DD facilities; and
3. pregnant women.

C. The four prescriptions per month limit can be exceeded when the prescriber determines an additional prescription is medically necessary and communicates the following information to the pharmacist in his own handwriting or by telephone or other telecommunications device:

1. "medically necessary override;" and
2. a valid ICD-9-CM, or its successor, diagnosis code that is directly related to each drug prescribed that is over the four prescription limit (no ICD-9-CM, or its successor, literal description is acceptable).

D. The prescriber should use the Clinical Drug Inquiry (CDI) internet web application developed by the fiscal intermediary in his/her clinical assessment of the patient's disease state or medical condition and the current drug regime before making a determination that more than four prescriptions per calendar month is required by the recipient.

E. ...

F. An acceptable statement and ICD-9-CM, or its successor, diagnosis code are required for each prescription in excess of four for that month.

G. ...

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 32:1055 (June 2006), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1901 (September 2009), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in that it may be necessary for individuals and families to use their own funds or to rely on others in order to purchase medications in excess of the reduced prescription limit.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Program Prescription Limit Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$437,961 for FY 10-11, \$997,749 for FY 11-12 and \$1,033,680 for FY 12-13. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$1,297,629 for FY 10-11, \$2,067,531 for FY 11-12 and \$2,123,558 for FY 12-13. It is anticipated that \$205 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The

numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized and appropriated by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional and appropriated enhanced federal match would be available after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the December 1, 2010 emergency rule, amends the provisions governing the Pharmacy Benefits Management Program to reduce the number of prescriptions covered by the Medicaid Program from 5 to 4 prescriptions within a calendar month. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$1,736,000 for FY 10-11, \$3,065,280 for FY 11-12 and \$3,157,238 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to some providers of pharmacy services. The reduction in payments may adversely impact the financial standing of pharmacy providers and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#095

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Pregnant Women Extended Services Dental Services Reimbursement Rate Reduction (LAC 50:XV.16107)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.16107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 11 of the 2010 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures in the Medicaid Program do not exceed the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental

services to reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 9).

As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 8). The August 1, 2010 Emergency Rule was amended to revise the formatting of LAC 50:XV.16107 as a result of the promulgation of the September 20, 2010 final Rule governing the Pregnant Women Extended Services Dental Program (*Louisiana Register*, Volume 36, Number 11).

Due to a continuing budgetary shortfall, the department promulgated an Emergency Rule which further reduced the reimbursement rates for dental services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the November 20, 2010 and the December 1, 2010 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16107. Reimbursement

A. - D.3.q. ...

E. Effective for dates of service on or after August 1, 2010, the reimbursement fees for dental services provided to Medicaid eligible pregnant women shall be reduced to the following percentages of the 2009 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 69 percent for the comprehensive periodontal evaluation exam;
2. 65 percent for the following diagnostic services:
 - a. intraoral-periapical first film;
 - b. intraoral-periapical, each additional film; and
 - c. panoramic film and prophylaxis, adult; and
3. 58 percent for the remaining diagnostic services and all periodontic procedures, restorative and oral and maxillofacial surgery procedures which includes the following dental services:
 - a. intraoral, occlusal film;
 - b. bitewings, two films;
 - c. amalgam (one, two or three surfaces) primary or permanent;
 - d. amalgam (four or more surfaces);
 - e. resin-based composite (one, two or three surfaces), anterior;
 - f. resin-based composite (four or more surfaces) or involving incisal angle, anterior;
 - g. resin-based composite crown, anterior;
 - h. resin-based composite (one, two, three, four or more surfaces), posterior;
 - i. prefabricated stainless steel crown, primary or permanent tooth;
 - j. prefabricated resin crown;
 - k. periodontal scaling and root planning (four or more teeth per quadrant);

- l. full mouth debridement to enable comprehensive evaluation and diagnosis;
- m. extraction, coronal remnants-deciduous tooth;
- n. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
- o. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
- p. removal of impacted tooth, soft tissue; and
- q. removal of impacted tooth, partially bony.

F. Effective for dates of service on or after December 1, 2010, the reimbursement fees for dental services provided to Medicaid eligible pregnant women shall be reduced to the following percentages of the 2009 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

- 1. 67.5 percent for the comprehensive periodontal evaluation exam;
- 2. 63.5 percent for the following diagnostic services:
 - a. intraoral-periapical first film;
 - b. intraoral-periapical, each additional film; and
 - c. panoramic film and prophylaxis, adult; and
- 3. 57 percent for the remaining diagnostic services and all periodontic procedures, restorative and oral and maxillofacial surgery procedures which includes the following dental services:
 - a. intraoral, occlusal film;
 - b. bitewings, two films;
 - c. amalgam (one, two or three surfaces) primary or permanent;
 - d. amalgam (four or more surfaces);
 - e. resin-based composite (one, two or three surfaces), anterior;
 - f. resin-based composite (four or more surfaces) or involving incisal angle, anterior;
 - g. resin-based composite crown, anterior;
 - h. resin-based composite (one, two, three, four or more surfaces), posterior;
 - i. prefabricated stainless steel crown, primary or permanent tooth;
 - j. prefabricated resin crown;
 - k. periodontal scaling and root planning (four or more teeth per quadrant);
 - l. full mouth debridement to enable comprehensive evaluation and diagnosis;
 - m. extraction, coronal remnants-deciduous tooth;
 - n. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
 - o. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
 - p. removal of impacted tooth, soft tissue; and
 - q. removal of impacted tooth, partially bony.

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 30:434 (March 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1902 (September 2009), amended LR 36:2044 (September 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pregnant Women Extended Services Dental Services—Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of \$37,161 for FY 10-11, \$70,994 for FY 11-12 and \$73,551 for FY 12-13. It is anticipated that \$656 (\$328 SGF and \$328 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$110,715 for FY 10-11, \$147,114 for FY 11-12 and \$151,100 for FY 12-13. It is anticipated that \$328 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that

additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the November 20, 2010 and the December 1, 2010 emergency rules, amends the provisions governing the reimbursement methodology for dental services to reduce the reimbursement rates for services rendered to Medicaid eligible pregnant women. It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$148,532 for FY 10-11, \$218,108 for FY 11-12 and \$224,651 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made for dental services to Medicaid eligible pregnant women. The reduction in payments may adversely impact the financial standing of dentists and could possibly cause a reduction in employment opportunities.

Don Gregory
Medicaid Director
1012#094

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Physician Services—Obstetrics Rate Increase
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:IX.15113 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., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Professional Services Program to further reduce the reimbursement rates paid for physician services and to clarify the provisions governing physician reimbursement for services rendered to recipients 16 years of age or older (*Louisiana Register*, Volume 36, Number 10).

To maintain access to obstetric delivery services and encourage the continued participation of physicians in the Medicaid Program, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 36, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 1, 2010 Emergency Rule.

Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part IX. Professional Services Program Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology Subchapter B. Physician Services §15113. Reimbursement

A. - H. ...

I. Effective for dates of service on or after December 1, 2010, reimbursement shall be 90 percent of the 2009 Louisiana Medicare Region 99 allowable for the following obstetric services when rendered to recipients 16 years of age and older:

1. vaginal-only delivery (with or without postpartum care);
2. vaginal delivery after previous cesarean (VBAC) delivery; and
3. cesarean delivery following attempted vaginal delivery after previous cesarean delivery. The reimbursement for a cesarean delivery remains at 80 percent of the 2009 Louisiana Medicare Region 99 allowable when the service is rendered to recipients 16 years of age and older.

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, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

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 by helping to stabilize provider participation in the Medicaid Program and improving access to obstetric services.

Public Comments

Interested persons may submit written comments to Don Gregory, 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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 26, 2011 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, 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 receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Professional Services Program
Physician Services—Obstetrics Rate Increase**

NOTICE OF INTENT

**Department of Health and Hospitals
Physical Therapy Board**

Physical Therapy (LAC 46:LIV.Chapters 1–5)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated programmatic increase to the state of \$241,656 for FY 10-11, \$687,378 for FY 11-12 and \$712,132 for FY 12-13. However, the cost is expected to be offset by an indeterminable amount from the anticipated savings realized in the Professional Services Program from prior reductions to obstetric delivery services. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

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 \$715,456 for FY 10-11, \$1,424,381 for FY 11-12 and \$1,462,980 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent (in FY 10-11). The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional enhanced federal match would be available and appropriated after December 2010 (end of the ARRA eligibility), state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the December 1, 2010 emergency rule, amends the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$956,784 for FY 10-11, \$2,111,759 for FY 11-12 and \$2,175,112 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a positive effect on employment as it will increase the payments for obstetric delivery services. The increase in payments may improve the financial standing of physicians and could possibly cause an increase in employment opportunities.

Don Gregory
Medicaid Director
1012#093

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Notice is hereby given that the Physical Therapy Board, pursuant to the authority of the Louisiana Physical Therapy Practice Act, R.S. 37:2401–2424, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., intends to amend its administrative rules governing the practice of physical therapy.

The Physical Therapy Board is proposing a comprehensive revision of the current rules to clarify the application of the newly revised PT Practice Act. The Physical Therapy Board is completely repealing in its entirety Chapters 1 through 3. The proposed new rules include term definitions, board operations, defining provisional licensees and supervised clinical practice for foreign educated physical therapists, requirements of credentialing agencies for foreign educated physical therapists, setting a limit on the number of attempts applicants may sit for the national physical therapy examination prior to remediation, changing the renewal period from annual to biennial, requirement for background checks, and criteria for continuing competence. Act 139 of the 2010 Legislative session changed supervision of physical therapist assistants thusly requiring rule changes. The proposed rules also include alternatives to disciplinary action for licensees who self-report first time, substance abuse issues, cease and desist authority, further defining violations and unprofessional conduct, and describes the adjudication process/appeal.

The proposed rules incorporate the holdings of Declaratory Statements which have been issued by the Board since the last revision. The changes support the Board in the execution of its duty to regulate the industry for the protection of the public.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIV. Physical Therapy

Subpart 1. Licensing and Certification

**Chapter 1. Physical Therapists and Physical
Therapist Assistants**

Subchapter A. Board Organization

§103. Board Domicile

A. The domicile of the board is Lafayette, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with 37:2403.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§105. Meetings [Formerly §179]

A. Meetings. Meetings of the board shall be held at least six times a year to transact business. Regular meetings shall be scheduled by the board in advance and the date and time of such meetings posted on the board website. Special meetings may be called by the chairman of the board, or at the request of five members of the board.

B. Location. Unless otherwise noticed, board meetings shall be held at the board office in Lafayette. The board may

meet at other locations as determined by the board with notice of such location posted at least five days prior to the meeting date. The location of the meeting shall not be changed after such notice is given without reasonable notice of such change provided to all board members and to others who have requested such notification.

C. Notice. Notice of all meetings of the board shall be posted at the board office, on the board website and in any other manner prescribed by the Administrative Procedure Act or Open Meetings Law.

D. Quorum. Any four members of the board shall constitute a quorum for any business before the board. A majority vote of those present in a meeting is required for passage of a motion before the board.

E. Open Meetings. All board meetings and hearings shall be open to the public. The board may, in its discretion and according to law, conduct any portion of its meeting in executive session, closed to the public and may request the participation in such executive session of staff members or others as may be needed for consideration of the business to be discussed in executive session.

F. Attendance. Board members are expected to attend a minimum of 80 percent of the regularly scheduled meetings, special meetings, open forums and hearings which may be scheduled in conjunction with or separate from regularly scheduled meetings. Attendance constitutes active participation in at least 80 percent of the entire meeting. Exceptions may be granted by the board for good cause. Notification of an expected absence shall be submitted to the board office as early as possible prior to the commencement of the meeting.

G. Rules of Order. The most current edition of Robert's Rules of Order shall govern all proceedings of the board unless otherwise provided by board rules or policy.

H. Public Comments. A public comment period shall be held during each board meeting. Persons desiring to present comments shall notify the executive director of the board prior to the beginning of the meeting. However, to assure that an opportunity is afforded to all persons who desire to make comments, the chairman shall inquire at the beginning of the meeting if there are additional persons present who wish to comment. The chairman shall allot the time available for the public comments in an equitable manner among those persons desiring to comment. Each person making public comments shall identify himself and the group, organization, company, or entity he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2404.A, R.S. 37:2404.B and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 26:1446 (July 2000), amended by the Physical Therapy Board, LR 37:

§107. Officers

A. The officers of the board shall be a chairman and secretary-treasurer.

B. The chairman shall preside at all board meetings and shall, when available, represent the board at official functions.

C. The secretary-treasurer shall act in place of the chairman when the chairman is not present or available.

D. The secretary-treasurer shall oversee board finances and present financial reports to the board as requested and

shall review and advise on board investments as directed by the board.

E. Officers of the board shall be elected annually at a meeting to be held during the month of January and shall serve a one-year term or until the election of their successors. An officer elected to a position vacated before the end of its term shall serve only for the remainder of that term.

AUTHORITY NOTE: Promulgated in accordance with 37:2404.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§109. Committees [Formerly §177]

A. Special Committees. Board committees are working bodies created and appointed by the board to assist in carrying out specific board functions. Such committees shall report to the board with recommendations on those issues which have been delegated to the committee for exploration.

B. Advisory Committee. The board may appoint an Advisory Committee not to exceed nine members to assist in the review of applicants qualifications for licensure; conduct applicant interviews; review continuing education activities and courses; and other duties deemed necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with 37:2405.B. (13) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 17:666 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000), amended by the Physical Therapy Board, LR 37:

§111. Compensation

A. Per diem, as authorized by R.S. 37:2404, shall be paid to board members and committee members for each day during which they are attending regular or called board meetings, attending to official business of the board, or attending a board related or board sanctioned conference or activity, including travel days to and from these meetings, conferences, and related board activities. Per diem does not negate reimbursement for meals, lodging, and other expenses incurred as a result of these meetings, conferences, and related activities.

AUTHORITY NOTE: Promulgated in accordance with 37:2404.C and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§113. Finances

A. Self Funding. The board shall be a self-sustaining body and shall generate sufficient revenues from fees and assessments to maintain effective and efficient operations.

B. Administrative Costs. Board orders in disciplinary proceeding may require the Respondent to reimburse the board for travel, meals, per diem, the cost of investigators, stenographers, attorneys, and other reasonably associated costs in order to recoup expenses attributable to a specific disciplinary case.

C. Budget. The board shall adopt an annual operating budget at a meeting which will allow timely filing with Division of Administration schedules.

D. Special Funds. The board may receive and expend funds in addition to its annual or biennial receipts, from parties other than the state, when the following conditions are met.

1. Such funds are awarded for the pursuit of a specific objective which the board is authorized to accomplish by

this Chapter, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise.

2. Such funds are expended for the pursuit of the objective for which they are awarded.

3. Activities connected with or occasioned by the expenditures of such funds do not interfere with the objective performance of the board's duties and responsibilities, and do not conflict with the exercise of the board's powers as specified by this Chapter.

4. Such funds are identified in the budget.

5. Periodic reports are made to the board concerning the receipt and expenditure of such funds.

E. Travel Expenses. Board members, committee members and employees shall be entitled to reimbursement of actual expenses reasonably necessary for attending board or committee meetings or for representing the board or participating in board-approved activities. The board shall adopt policies to provide guidance to the executive director in determining "reasonable" expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2404.C; R.S. 37:2424.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§115. Applicable Laws

A. Board procedures and operations shall adhere to the Administrative Procedures Act, R.S. 49:950 and following; the Open Meetings Law, R.S. 42:4.1 and following; the Public Records Act, R.S. 44:1 and following; and other state and federal laws to which board activities are subject.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (4) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§117. Executive Director

A. The executive director shall carry out the functions of the board relative to its statutory requirements and other duties as defined by the board. The executive director shall appoint and supervise employees for professional, clerical, and special duties necessary to carry out the board's functions and may establish standards for the conduct of employees in compliance with state regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (5) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§119. Affiliations

A. The board may join and pay dues to such professional organizations and associations organized to promote the improvement of standards of practice in physical therapy or to advance and facilitate the operation of the board as an entity. In participating in such organizations or associations, the board may accept reimbursement of conference fees and travel expenses as are available generally to organizational members of those organizations or associations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§121. Declaratory Statements [Formerly §351]

A. The board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Practice Act, R.S. 37:2401 and following, and/or the board's rules, Title 46:103 and following.

1. A request for a 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 or rule and regulation to which the petition relates;

c. a concise statement of the manner in which the petitioner is aggrieved by the rule or statute or by its potential application to his concern.

2. The petition shall be considered by the board within a reasonable period of time taking into consideration the complexity of the issues raised and the board's meeting schedule.

3. The declaratory statement of the board in response to the petition shall be in writing and sent to the petitioner at the last address furnished to the board and shall be made available on the board website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

Subchapter B. General Provisions

§123. Definitions [Formerly §§103, 113, 119, 303, and 305]

A. As used in this Title, the following terms and phrases, defined in the Practice Act, R.S.37:2401–2424, shall have the meanings specified here.

Active Status—the current state of a license which classifies the licensee as holding a current and valid license and being in good standing.

Administrative Complaint—a sworn statement of allegations prepared by board counsel and filed with the board which includes a statement of the matters asserted and reference the particular Sections of the statutes and rules involved, the filing of which initiates a contested disciplinary proceeding.

American Physical Therapy Association—APTA

Applicant—a person who has applied to the board for a license to engage in the practice of physical therapy in the State of Louisiana.

Application—a written request directed to and received by the board, upon forms approved and supplied by the board, for a license to practice physical therapy in the State of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Board—the Louisiana Physical Therapy Board (formerly the Louisiana State Board of Physical Therapy Examiners) created by R.S. 37:2403 within the Louisiana Department of Health and Hospitals, acting through its members as a body or through its executive director and staff carrying out the rules, policies and precedents established by the board.

Board Order—a final decision of the board issued in a contested proceeding or in lieu of such proceeding, which may include findings of fact and conclusions of law, separately stated.

CAPTE—the Commission on Accreditation of Physical Therapy Education

Client—a person seeking or receiving information, education and/or recommendations for activities related to

wellness and preventive services including conditioning, injury prevention, reduction of stress, or improvement in fitness.

Clinical Instructor—a PT or a PTA supervising a student pursuing a career in the physical therapy profession.

Clinical Supervisor—a PT selected with approval of the board with at least 3 years of clinical experience who directly supervises the licensee in the clinical environment.

Confidentiality—all records of a PT or PTA who has successfully completed or is actively participating in the non-disciplinary alternative program shall not be subject to public disclosure, and shall not be subject to discovery in legal proceedings except as required by federal and state confidentiality laws and regulations. The records of a PT or PTA who fails to comply with the program agreement or who leaves the program without enrolling in an alternative program in the state to which the practitioner moves, or who subsequently violates the Louisiana Physical Therapy Act or the board rules, shall not be deemed confidential except for those records protected by federal and state confidentiality laws and regulations.

Consultative Services—when a PT provides information, advice, or recommendations with respect to physical therapy, but does not undertake to provide or supervise physical therapy treatment. Consultative Services can be provided to the public or to other health care providers without referral or prescription.

Contact Hour—60 minutes of continuing education instruction.

Contested Case—a disciplinary proceeding in which the legal rights, duties, or privileges of a Respondent are to be determined by the board after an opportunity for an adjudicative hearing.

Continuing Education—education beyond the basic preparation required for entry into the profession and directly related to the performance and practice of physical therapy. Courses and activities shall meet the content criteria set forth in §195.

Continuous Supervision—where the Supervising PT of Record is physically present in the same treatment area to provide observation and supervision of the procedures, functions and practice rendered by a PT or PTA student or PT technician.

CWT—the Coursework Tools for Foreign Educated PTs (CWT) were developed by the FSBPT as a standardized method to evaluate the educational equivalence of foreign educated PTs. Each CWT reflects the minimum general and professional educational requirements for substantial equivalence at the time of graduation with respect to a US first professional degree in physical therapy.

Criminal History Record Information—information collected by state and federal criminal justice agencies on applicants and licensees consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising therefrom, including sentencing, criminal correctional supervision, and release, but does not include intelligence for investigatory purposes, nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

Disciplinary Action—the imposition of a sanction by the board which may include reprimand, probation, suspension, or revocation of a license, and other appropriate requirements.

Discharge Summary—the written documentation of the reasons for discontinuation of care, degree of goal achievement and a discharge plan which shall be written and signed by the Supervising PT of Record.

Documented Conferences—as used in R.S. 37:2418F(2)(e), see Patient Care Conference definition.

Dry Needling—a physical intervention which utilizes filiform needles to stimulate trigger points in a patient's body for the treatment of neuromuscular pain and functional movement deficits. Dry Needling is based upon Western medical concepts and does not rely upon the meridians utilized in acupuncture and other Eastern practices. A physical therapy evaluation will indicate the location, intensity and persistence of neuromuscular pain or functional deficiencies in a physical therapy patient and the propriety for utilization of dry needling as a treatment intervention. Dry needling does not include the stimulation of auricular points.

Foreign Educated PT Applicant—a person whose education as a PT was obtained in a program not accredited by CAPTE.

FSBPT—the Federation of State Boards of Physical Therapy

Good Moral Character—as applied to an applicant or licensee means the aggregate of qualities evidenced by past conduct, social relations, or life habits, which actually provide persons acquainted with the applicant or licensee a basis to form a favorable opinion regarding his ethics and responsibility to duty. In addition, to achieve and maintain Good Moral Character, an applicant or licensee shall provide accurate, complete and truthful information to the board and shall not, at any time, commit any act or omission which provides a basis for disciplinary actions or violations under R.S. 37:2420 or R.S. 37:2421.

HIPDB—Healthcare Integrity and Protection Data Bank—the Secretary of the U.S. Department of Health and Human Services, acting through the Office of Inspector General (OIG), was directed by the Health Insurance Portability and Accountability Act of 1996 to create the Healthcare Integrity and Protection Data Bank (HIPDB) to combat fraud and abuse in health insurance and health care delivery. The HIPDB is primarily a flagging system that may serve to alert users that a comprehensive review of a practitioner's, provider's, or supplier's past actions may be prudent. The HIPDB is intended to augment, not replace, traditional forms of review and investigation, serving as an important supplement to a careful review of a practitioner's, provider's, or supplier's past actions.

Impairment or Impaired—impairment or impaired means a condition that causes an infringement on the ability of an individual to practice, or assist in the practice, of physical therapy with reasonable skill and safety to patients. Impairment may be caused by, but is not limited to, alcoholism, substance abuse, addiction, mental and/or physical conditions.

Informal Conference—a meeting held pursuant to R.S. 49:961.C with a Respondent and an Investigative Committee

of the board to determine whether a disciplinary case should proceed.

In Good Standing—a person who holds a current, valid license from the board and who has no pending or active disciplinary actions or sanctions against that license. The board is the ultimate arbiter of whether a licensee is in good standing at a given time.

Investigative Committee—the panel designated by board policy to investigate complaints and to conduct Informal Conferences in disciplinary matters, typically composed of one or more board members, the executive director, investigator and legal counsel.

Jurisprudence—the body of law applicable to the practice of physical therapy in Louisiana including the Practice Act and the rules promulgated by the board.

Jurisprudence Examination—an open book examination made up of multiple choice and/or true/false questions covering information contained in the Practice Act and board rules.

Legend Drug—any drug intended for use by humans which carries on its label any of the following: "caution: Federal law prohibits dispensing without a prescription", "Rx," or "Rx only."

Legend Device—any device intended for use by humans which carries on its label "Rx," "Rx Only," or a statement that federal law restricts the device to sale by or on the order of a licensed healthcare practitioner.

Letter of Concern—a statement placed in the permanent record maintained by the board for a licensee who has been brought to the board for questionable conduct but whose actions have not been found to merit disciplinary action. A letter of concern shall not be reportable to HIPDB and shall not be published with board disciplinary actions.

License—the lawful authority of a PT or PTA to engage in the practice of physical therapy in the State of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Louisiana Physical Therapy Practice Act—Practice Act *Minimal Standards of Acceptable and Prevailing Physical Therapy Practice*—include, but are not limited to, those set forth in the Code of Ethics and related documents of APTA.

Moral Turpitude—baseness, vileness, or dishonesty of a high degree and contrary to community standards of justice, honesty, or good morals.

Notice—a statement of the intended date, time, place, and nature of a meeting or hearing, and the legal authority and jurisdiction under which a hearing is to be held. Notice may include a formal complaint filed to initiate a contested disciplinary proceeding.

NPTE—the National Physical Therapy Examination administered by the FSBPT.

On Premises—the Supervising PT of Record is personally present in the treating facility and immediately available to the treatment area.

Participate—as used in R.S. 37:2418F(2)(b) means that a Supervising PT of Record assumes responsibility for the care which he and those under his supervision provide to patients, provides appropriate treatment, and that, at a minimum the PT will:

a. perform the initial evaluation and document the patient's plan of care;

b. treat and reassess the patient at least every sixth treatment day or every 30 days, whichever occurs first;

c. treat the patient for the final treatment session unless the patient is physically unavailable; and

d. write the discharge summary.

Passive Manipulation—manipulation or movement of muscular tissue or joints other than by the spontaneous function of the body or active effort on the part of a patient.

Patient Care Conference—a meeting between a PTA who is providing patient care and the PT supervising that care to discuss the status of patients. This conference shall be conducted where the PT and PTA are both physically present at the same time and place.

Per Diem—compensation to a board member or committee member for each day during which he is attending regular or called board meetings, attending to official business of the board, or attending a board related or board sanctioned conference or activity, including travel days to and from these meetings, conferences, and related board activities.

Person—includes a natural person, partnership, corporation, association, or other entity having legal existence, unless the context requires a more limited meaning.

Physical Therapist—a person licensed by the board who is a graduate of a CAPTE accredited program with a minimum of a bachelors degree or a foreign educated PT who has been granted a license pursuant to the Practice Act.

Physical Therapist Assistant—a person licensed by the board who is a graduate of an associate degree program in physical therapist assisting accredited by CAPTE or who was granted licensure pursuant to the Practice Act.

Physical Therapy Evaluation—the evaluation of a patient by a PT using physical and cognitive findings, objective tests and measurements, patient history, and their interpretation to determine musculoskeletal and biomechanical limitations, and the suitability for, and potential efficacy of, physical therapy and the establishment or modification of a physical therapy treatment program and goals.

Physical Therapy Technician—a worker not licensed by the board who functions in a physical therapy clinic, department or business and assists with preparation of the patients for treatment and with limited patient care.

Physiotherapy—physical therapy.

Practice Setting—unless otherwise defined, the physical location where patient care is performed or client services provided. Practice setting may also refer to the type of organization which provides physical therapy services, such as an outpatient clinic, hospital, nursing home, rehab facility, school or the delivery of home healthcare.

Prescription—a request for physical therapy evaluation or treatment made by a healthcare provider lawfully authorized to make such request. A referral.

Preventive Services—the use of physical therapy knowledge and skills by a PT or PTA to provide education or activities in a wellness setting for the purpose of injury prevention, reduction of stress and/or the promotion of fitness. Does not include the administrations of physical therapy treatment and, therefore, can be performed without referral or prescription.

Progress Note—written documentation of the patient's subjective status, changes in objective findings, and progression to or regression from established goals.

Provisional License—a license issued to a foreign graduate PT applicant pending completion of the supervised clinical practice required for licensure by these Rules.

PT—physical therapist

PTA—physical therapist assistant

Reassessment or *Reevaluation*—written documentation which includes all elements of a progress note as well as the interpretation of objective findings compared to the previous evaluation with a revision of goals and treatment plans as indicated.

Reciprocity—the acknowledgment and licensure by the board of a PT or PTA licensed by another state pursuant to procedures established by the board.

Referral—a request for physical therapy evaluation or treatment made by a healthcare provider lawfully authorized to make such request. A prescription.

Reprimand—a form of censure by the board of a licensee for violation of the Practice Act or Rules.

Respondent—a licensee who is the subject of an informal complaint or an administrative complaint alleging violation of the Practice Act or board rules.

Revocation—the withdrawal of a license issued by the board, terminating the right and privilege of practicing physical therapy in Louisiana.

RPTP—recovering Physical Therapy Program adopted by the board.

RPTP Agreement—a document approved by the board containing provisions which identify requirements for successful participation in the RPTP, including but not limited to evaluation, treatment, after care, testing, monitoring, supervision reports, meeting attendance, and practice restrictions.

RPTP Compliance—conforming to the requirements of the Recovering Physical Therapist Program Agreement.

State—Any state of the US, the District of Columbia and Puerto Rico.

Student—a person who is pursuing a course of study leading to a degree in physical therapy or physical therapist assisting from a professional education program certified by CAPTE and approved by the board, and who is pursuing supervised clinical education requirements related to his physical therapy education.

Summary Suspension—the suspension of a license by emergency board action which requires a licensee to immediately cease practice pending disciplinary proceedings provided by law.

Supervising PT of Record—the PT who performs the initial evaluation and remains responsible for the provision of care to that patient for the entire course of their treatment. The supervision of the care for that patient remains the responsibility of the Supervising PT of Record unless it is documented that there is a new Supervising PT of Record.

Suspended License—restricting the licensee's privilege to practice physical therapy or physical therapist assisting for a specified period of time.

Topical Agents/Aerosols—medications used in physical therapy treatment which are applied to the skin and obtained over-the-counter, by prescription or order, or from a licensed distributor.

Treatment Record—the written documentation of each patient visit which includes specific treatment and/or any equipment provided which shall be signed or initialed by the Supervising PT of Record or PTA.

When Feasible—as used in R.S. 37:2418F (2)(g), means whenever the patient is still physically available to receive treatment and assessment.

Wound Care and Debridement—patient care provided by a PT, provisionally licensed PT, or student PT, which removes non-living tissue from pressure ulcers, burns and other wounds as part of wound management, including but not limited to, sharps debridement, debridement with other implements or agents, changing dry or wet dressings, and application of topical agents including enzymes, and hydrotherapy.

Written Record of Physical Therapy—documentation including the prescription or referral (if it exists), the initial evaluation, treatment notes, notes of patient care conferences, progress notes, reevaluations or reassessments, and patient status at discharge documenting the complete course of patient care.

Written Treatment Plan or Program—documentation created by a PT specifying the measurable goals, specific treatments to be used and the proposed duration and frequency of treatment; is an integral component of a PT evaluation and must be completed by the PT prior to delegating appropriate treatment to a PTA or PT technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2407.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 19:208 (February 1993), LR 15:389 (May 1989), LR 19:208 (February 1993), LR 26:1448 (July 2000), amended by the Physical Therapy Board, LR 37:

§125. Additional Definitions [Formerly §306]

A. As used in R.S. 37:2418 C. (1) (2) (3) (4) (5), the following words and phrases shall have the following meaning.

Child or *Children*—an individual or individuals under the age of 21 years.

Patient—An individual receiving treatment through physical therapy services for a diagnosed condition or conditions.

Plan of Care—a Written Treatment Plan or Program as defined in §123, and incorporating the documentation standards provided for in §341.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 31:441 (February 2005), amended by the Physical Therapy Board, LR 37:

Subchapter C. Graduates of American Physical Therapy Schools and Colleges

§127. Scope of Subchapter [Formerly §105]

A. The rules of this Subchapter govern the licensing of PTs and PTAs who are graduates of physical therapy or physical therapist assistant schools located within any state or US territory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2409 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§129. Qualifications for License [Formerly §107]

A. To be eligible for a license as a PT, an applicant shall:

1. be at least 21 years of age;
2. be of good moral character as defined in these rules;
3. have paid all fees required by the board;
4. be a citizen of the US or possess valid and current legal authority to reside and work in the US duly issued by the US immigration authorities under and pursuant to the Immigration and Nationality Act (66 Stat.163) and duly promulgated regulations;

5. possess a minimum of a bachelor's of science degree in Physical Therapy and have completed an academic education from a school duly accredited by CAPTE; as set forth in §175.

6. have achieved a passing score on the NPTE as set forth in §169;

7. have paid all fees required by the board; and

8. furnish the board with his social security number.

B. To be eligible for a license as a PTA, an applicant shall:

1. be at least 19 years of age;

2. be of good moral character as defined in these rules;

3. have paid all fees required by the board;

4. have graduated from a physical therapist assistant program accredited by CAPTE; as set forth in §175;

5. have achieved a passing score on the NPTE as set forth in §169;

6. be a citizen of the US; and

7. furnish the board with his social security number.

C. The burden of satisfying the board as to the qualifications and eligibility of an applicant for licensure is upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2409, R.S. 37:2411 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:662 (July 1991), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1443 (July 2000), amended by the Physical Therapy Board, LR 37:

§131. Procedural Requirements [Formerly §109]

A. In addition to the substantive qualifications specified in §129, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§149–153 of this Chapter and, if applicable, the procedures and requirements for examination approved by the board as set forth in §§155–161 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2409 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy

Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 26:1444 (July 2000), amended by the Physical Therapy Board, LR 37:

§133. Approved Schools of Physical Therapy or Physical Therapist Assisting [Formerly §111]

A. Graduation from an approved school is among the qualifications requisite to physical therapy or physical therapist assistant licensure as provided by §129.A.5 for American graduates, and §129.B.4 and §145 for reciprocity applicants. This qualification is satisfied if the school from which the applicant graduated was approved by the board as of the date the applicant's degree was issued.

B. A school of physical therapy or physical therapist assisting located in any state which is currently accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, the US Department of Education, CAPTE, or their successors, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2411 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

Subchapter D. Graduates of Foreign Physical Therapy Schools

§135. Scope of Subchapter: Definition [Formerly §113]

A. The rules of this Subchapter specify additional qualifications, requirements and procedures for the licensing of PTs who are graduates of foreign physical therapy schools.

B. As used in this Subchapter, the term foreign graduate means a person whose education in physical therapy was obtained outside the US in a program not accredited by CAPTE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§137. Qualification for License, Provisional License [Formerly §115]

A. To be eligible for a license as a PT, a foreign graduate applicant shall:

1. possess all of the substantive qualifications for license specified by §129 of this Chapter, except for §129.A.4;

2. have successfully completed a physical therapy education curriculum that is substantially equivalent to the requirements for PTs educated in U.S. physical therapy schools. Using a course work evaluation tool approved by the board, as required by §139.D, an approved credentials evaluation service shall determine the substantial equivalence of the applicant's education. Such education shall include no less than 150 total semester-hour credits including no less than 90 semester-hour credits of physical therapy education and no less than 60 semester-hour credits of general education;

3. have completed at least 6 months of approved supervised clinical practice as required in §331.E;

4. have achieved passing scores on standardized English proficiency examinations as approved by the board if English is not the applicant's native language;

5. have acceptable documentation, with notarized English translation, that he has met the requirements to practice physical therapy in the country of education and is in good standing with, the physical therapy licensing or certifying agency in his country of education;

6. possess valid and current legal authority to reside and work in the US duly issued by US immigration authorities under and pursuant to the Immigration and Nationality Act (66 Stat.163) and duly promulgated regulations; and

7. furnish the board with his/her social security number. A license to practice as a physical therapist in the State of Louisiana will not be issued until submission of a copy of the social security card.

B. The burden of satisfying the board's requirements and qualifications for licensure as a foreign graduate is upon the applicant. An applicant shall not be deemed to possess required qualifications unless the applicant demonstrates and evidences such qualifications in the manner satisfactory to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 18:962 (September 1992), LR 19:208 (February 1993), LR 22:284 (April 1996), LR 24:39 (January 1998), LR 26:1444 (July 2000), LR 28:1979 (September 2002), amended by the Physical Therapy Board, LR 37:

§139. Licensing Procedures for Foreign Educated Applicants

A. A foreign educated PT applicant must complete the license application process set forth in §137 if applying for licensure by examination or, as set forth in §145, if applying for licensure by reciprocity.

B. The board will issue a license only after the applicant is physically present in the US and has met all requirements for licensure.

1. To meet the requirements of §137.A.6 the applicant shall obtain a work visa to reside and seek employment in the US issued by the federal immigration authorities, produce the original, and provide a copy of the work visa to the board.

C. Designated Representative Letter

1. An applicant may designate a person as a representative by providing a written authorization to the board which includes the name, telephone number, and address of the person stating that the person will be the designated representative for the applicant.

2. This authorization must be notarized by a notary of the country in which the applicant resides and sent directly to the board. A copy of the notarized authorization shall be sent to the designated representative by the applicant.

3. A designated representative may obtain confidential information regarding the application.

4. The authorization to represent an applicant will be valid until the applicant receives his provisional license or

the board is notified in writing by the applicant that the designated representative has been terminated or replaced. An applicant may have only one designated representative at any time.

5. The designated representative is not required by the board to have power of attorney for the applicant. A designated representative or power of attorney for an applicant may not sign for the applicant any document requiring the notarized signature of the applicant. Documents submitted by a designated representative or power of attorney for the applicant must be submitted in accordance with the requirements set by the Practice Act and rules. Any falsification of, or misrepresentation in, documents required for licensing submitted by a designated representative or a person with power of attorney for the applicant may result in denial of license or other penalties to the applicant.

D. Credentials Evaluation. A foreign graduate PT applicant must submit to the board a credentials evaluation of professional education and training prepared by a board-approved credentialing entity using the Course Work Tool. The board will maintain a list of approved credentialing entities on its website. The credential report must have been prepared no more than eighteen months prior to the date of the application for licensure, and must be submitted to the board directly by the credential evaluation agency. The applicant is responsible for any expense associated with the credentials evaluation.

1. The credentials evaluation must provide documentation that the applicant's education from outside a state or territory of the US is substantially equivalent to the education of a PT who has graduated from a physical therapy education program accredited by CAPTE. The evaluation must also establish that the institution at which the applicant received his physical therapy education is recognized by the Ministry of Education or an equivalent agency in that country.

2. To determine substantial equivalency, the credentialing evaluation entity shall use a Course Work Tool (CWT) adopted by the FSBPT and approved by the board.

3. To determine substantial equivalency, the entity shall use the version of the CWT in place at the time of entry by the applicant into the US.

4. To be considered substantially equivalent to the requirements established in this rule, the applicant's foreign education must contain evidence of the content and distribution of coursework identified in the appropriate coursework evaluation tool identified in Paragraph D.3 of this rule.

5. An evaluation prepared by a credentialing agency reflects only the findings and conclusion of that agency, and shall not bind the board. If the board determines that the applicant's education is not substantially equivalent to an entry-level physical therapy program accredited by CAPTE, the board will notify the applicant in writing, identifying the deficiencies.

E. If a document required by this title is in a language other than English, the applicant shall arrange for its translation into English by a translation service acceptable to the board and shall submit a translation signed by the translator attesting to its accuracy.

F. The board-approved clinical supervisor for a foreign PT graduate applicant shall attend with the applicant the personal interview scheduled with a member of the board, or its designee, as a condition for the board's consideration of the license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Hospitals, Physical Therapy Board, LR 37:

§141. Guidelines for Board-approved Education Credentialing Entities

A. The credentialing entity will review all of an applicant's post-secondary education credentials earned outside of the US. The applicant must have completed, with a passing grade of A, B, C, Pass or Credit, 60 semester hours credit or the equivalent in general education courses from an accredited institution of higher learning. This general education requirement may be met by credits earned at U.S. colleges or universities, by College Level Examination Program (CLEP) credits, or Advanced Placement (AP) according to standards of the American Council on Education. The number of credits earned by CLEP or AP may not exceed 12 semester credits.

B. The credentialing entity must attest that the institution attended by the applicant was accredited by the Ministry of Education or the equivalent in that country.

C. All foreign PT applicants must demonstrate the ability to communicate in English by achieving no less than the minimum score accepted by the board on board-approved English proficiency tests. For graduates of entry-level physical therapy programs in other foreign countries, the board may grant an exception to the English Proficiency test if the applicant holds a current license in physical therapy in another state and has been licensed in the U.S. for no less than 10 years prior to application.

D. The credentialing entity must attest that the applicant is, or was, licensed or authorized to practice in the country in which the entry-level degree in physical therapy was granted. If there is no licensure or official authorization in such country, the applicant must be eligible for unrestricted practice there. The board may waive this requirement for an applicant who is not licensed in the country of education due to a citizenship requirement of that country.

1. If the application is for licensure by examination, the license or authorization in such country must be current and in good standing at the time of application.

2. If the application is for licensure by reciprocity, and the applicant has passed the NPTE meeting Louisiana standards, the license or authorization to practice must have been in good standing at the time the license or authorization in such country expired.

E. The credentialing entity must attest that the applicant has successfully completed an educational program substantially equivalent to U.S. programs accredited by CAPTE and has earned the equivalent of no less than 90 semester hours of professional physical therapy education.

F. If the degree awarded is substantially equivalent to a degree in physical therapy as awarded by CAPTE-accredited programs in the US, the credentialing entity must use the Coursework Evaluation Tool for Foreign Educated PTs (CWT), as developed by the FSBPT when evaluating an applicant's credentials. The version of the tool used must correspond at minimum to the year the entry-level degree

was awarded. Education deficiencies must be identified and must indicate the subjects and credit hours necessary to satisfy the requirements of the CWT. If the degree received by the applicant is from a CAPTE-accredited program located outside the U.S., the program is considered equivalent to a domestic CAPTE-accredited physical therapy program, and the applicant is exempt from meeting the requirements of the CWT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Hospitals, Physical Therapy Board, LR 37:

§143. Procedural Requirements [Formerly §117]

A. In addition to the substantive qualifications specified in §137, to be eligible for licensure, a foreign PT applicant shall satisfy the procedures and requirements for application provided by §§149–153 of this Chapter and, the procedures and requirements for examination administered by the board provided in §§155–161.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 26:1444 (July 2000), amended by the Physical Therapy Board, LR 37:

Subchapter E. Licensure by Reciprocity

§145. Qualifications for Licensure by Reciprocity [Formerly §121]

A. Application for licensure by reciprocity under Subchapter E may be made at any time.

B. An applicant who possesses and meets all of the qualifications and requirements specified by §§129–133 of this Chapter, but who has taken the board approved licensing exam in another state, shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license or its equivalent issued by another state.

C. A foreign PT graduate who meets the requirements of Subsections 137.A. and 145 and who has practiced as a licensed PT in another state for at least one year, may, with acceptable documentation of clinical experience, be eligible for licensure by reciprocity as a PT at the discretion of the board. Licensure under this Subsection waives the period of supervised clinical practice set forth in Paragraph §137.A.3 of these rules.

D. To be eligible for licensure under Subsections A and B, applicants shall have met the continuing education requirements contained in the Practice Act and/or board rules within the 24 months preceding their application.

E. An applicant who has not practiced physical therapy for a period of three or more years shall be subject to these additional requirements.

1. An applicant who has not practiced physical therapy for more than three years but less than ten years shall complete the following activities to bring the applicant to the current level of physical therapy practice:

a. various education activities, which includes a review and discussion with a mentor in the appropriate practice setting of 25 physical therapy journal articles;

b. a remedial educational program approved by the board; and

c. supervised clinical practice for a period designated by the board.

2. An applicant who has not practiced physical therapy for more than ten years shall be subject to these additional requirements:

a. supervised clinical practice for a period designated by the board of no less than three months under the direct, on-site supervision of a board approved PT who has practiced no less than three years with a Louisiana license in good standing;

b. completion of the General Practice Review Tool offered by the FSBPT and satisfactory completion of continuing education courses to bring the applicant's knowledge to current standards;

c. a supervision agreement must be approved by the executive director before a provisional license will be issued. The supervision agreement shall be in force for the entire supervised clinical practice. The provisional licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any changes in practice sites or supervisors must be submitted in a proposed revised supervision agreement and approved prior to the change taking place. At the end of the supervisory period, the Supervising PT of Record shall report to the board satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the Supervising PT of Record, the Board, in its discretion, may require an additional three month supervisory period; and

d. complete remedial courses which may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2412 and (4) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 34:1906 (September 2008), amended by the Physical Therapy Board, LR 37:

§147. Temporary Reciprocal Provisional License [Formerly §151]

A. The board may issue a provisional license for a limited time period to a PT licensed in another state, or a foreign educated PT credentialed in another country, to perform physical therapy services on a patient as part of an education seminar or athletic event recognized and approved by the board. A provisional license may not be issued to the same person for more than 60 days in a calendar year. Such provisional license holder shall be obligated to comply with the provisions of the Practice Act and the board's rules regarding his practice of physical therapy in Louisiana. The provisional license holder shall obtain the provisional license prior to providing physical therapy services in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy

Examiners, LR 19:208 (February 1993), LR 26:1445 (July 2000), amended by the Physical Therapy Board, LR 37:

Subchapter F. License Application

§149. Purpose and Scope [Formerly §123]

A. The rules of this Subchapter govern the procedures and requirements for application to the board for licensing as a PT and PTA in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2413 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§151. Requirements [Formerly §125]

A. Application for licensure shall be made upon forms supplied by the board. Application forms and instructions may be obtained from the board's website. Upon written request, an application form shall be mailed to the applicant.

B. An application for licensure under this Chapter shall include:

1. a fully completed application using the form provided by the board;

2. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in this Chapter;

3. one recent passport size color photograph of the applicant taken within six months of the application date;

4. such other information and documentation as the board may require to evidence qualification for licensure and completion of the requirements for licensure; and

5. the application fees due from an applicant receiving a one year license shall be \$200; application fee due from an applicant receiving a two-year license shall be \$315.

C. An applicant for whom clinical supervision is required must forward to the board for approval, on the required form, the name of the PT who will supervise his clinical practice. The supervisor must consent to the supervision and be approved by the board prior to issuance of a provisional license.

D. After submission of a completed application, an applicant shall, by appointment, meet personally with a member of the board, or a designee of the board, as a prerequisite to completion of the application process.

E. In addition to any other requirements established by regulation, the board may require an applicant, as a condition for eligibility for initial licensure:

1. to submit a full set of fingerprints, in a form and manner prescribed by the board;

2. to authorize the board to obtain state and national criminal history record information on the applicant;

3. to collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board for state and national criminal history record information on the applicant.

F. In accordance with the provisions and procedures prescribed by this Section, the board may request and obtain state and national criminal history record information from the Louisiana State Police and the FBI relative to any applicant for licensure whose fingerprints the board has obtained pursuant to this Section for the purpose of

determining the applicant's suitability and eligibility for licensure.

G. Upon request by the board and upon the board's submission of an applicant's fingerprints, and such other identifying information as may be required, the Louisiana State Police shall conduct a search of its criminal history record information relative to the applicant and report the results of its search to the board within 60 days from receipt of any such request. The board shall pay to the Louisiana State Police a processing fee pursuant to R.S. 15:587 for conducting and reporting on any such search.

H. If the criminal history record information reported by the Louisiana State Police to the board does not provide grounds for disqualification of the applicant for licensure under the applicable law administered by the board, the board shall have the authority to forward the applicant's fingerprints and such other identifying information as may be required to the FBI with a request for a search of national criminal history record information relative to the applicant.

I. Any and all state or national criminal history record information obtained by the board from the bureau or FBI which is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, investigators, agents, and attorneys in evaluating the applicant's eligibility or qualification for licensure. No such information or records shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

J. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form and instructions. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition for consideration of an application.

K. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 5 of these rules.

L. To assure equal opportunity for all persons, and in accordance with the Americans with Disabilities Act, Public Law 101-336, the board shall make reasonable accommodations for an applicant for licensure by examination if the applicant has a qualified disability pursuant to applicable law and is approved by the board. The board requires notification of an applicant's disability no later than receipt of a completed application form and fee. The notification by the applicant should include the type of accommodation required. A copy of the tests performed and the diagnosis made by a physician qualified to administer such tests must be submitted with objective documentation of the disability. Accommodations to be made by the board should be reasonable in that they should not impose undue hardship on the board. Accommodations for persons with disabilities may include accommodations that are reasonably appropriate for the disability and are not limited to extended time for the examination, a map of the examination facility indicating wheelchair accessible entrances, elevators, restrooms, and examination rooms.

M. Every applicant shall personally complete, sign, and date his application for licensure and oath. The application

must be notarized by a notary in the country in which the applicant resides and forwarded directly to the board.

N. An application which is incomplete will be closed after one year of inactivity. At the end of this period, any application which is not completed will be considered abandoned and closed by the board and fees paid to the board will not be refunded. Should the applicant re-apply after his incomplete application is closed, he shall be required to begin the process anew, including the payment of the application fee to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2413 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 26:1444 (July 2000), amended by the Physical Therapy Board, LR 37:

§153. Effect of Application [Formerly §129]

A. Submission to the board of an application for licensure constitutes authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, clinic, office or institution by whom or with whom the applicant has been employed in the practice of physical therapy, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment, and each professional organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to the application. With respect to such information or documentation, the submission of an application for licensure to the board constitutes consent by the applicant for disclosure and release of such information and documentation, and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise be entitled to.

B. By submission of an application to the board for licensure or renewal, an applicant agrees to submit to physical, mental, or substance abuse examinations or evaluations, if, when, and in the manner directed by the executive director, and waives all objections to the admissibility or disclosure of findings, reports or recommendations to the board on grounds of privacy or privileges provided by law. The expense of any such examination or evaluation shall be borne by the applicant.

C. Submission of an application for licensure constitutes authorization by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to Subsections A or B of this Section to any person, firm, corporation, association or governmental entity having a lawful, legitimate, and reasonable need therefore including, without limitation, the physical therapy licensing authority of any state; the FSBPT, APTA and its state affiliates; federal, state, county, or parish and municipal health and law enforcement agencies,

including the Louisiana Department of Health and Hospitals; and the Armed Services.

D. An applicant who submits false information may be denied licensure by the board.

E. If the board rejects an application for licensure, the reasons for the rejection shall be provided to the applicant. The applicant may submit additional information and request reconsideration by the board. If the applicant remains dissatisfied, a formal hearing may be requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2413 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

Subchapter G. Examination

§155. Designation of Examination [Formerly §131]

A. The examination approved by the board pursuant to R.S. 37:2414 shall be standardized and nationally accepted by FSBPT and/or APTA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 26:1445 (July 2000) amended by the Physical Therapy Board, LR 37:

§157. Eligibility for Examination [Formerly §133]

A. To be eligible for examination by the board, an applicant shall possess all qualifications for licensure prescribed by §129.A. However, an applicant who has completed, or will complete prior to examination, his physical therapy or physical therapist assistant education, but who does not yet possess a degree or certificate as required by §129.A.4 or §129.B.4, shall be deemed eligible for examination upon submission to the board of a letter subscribed by the authorized representative of an approved school certifying that the applicant has completed all academic education at such school or college, that a degree in physical therapy or physical therapist assisting will be conferred at the next scheduled convocation of such school, and specifying the date on which such degree will be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§159. Dates, Places of Examination [Formerly §135]

A. Once the application process is completed, including the payment of fees, the applicant will be notified of his eligibility to schedule the examination with any approved testing service. Within 60 days from the date specified in the eligibility letter, the applicant must sit for the examination. If the examination is not taken within the 60 days, the applicant shall be removed from the eligibility list and must begin the application process again including the payment of

all required fees and charges. Failure to sit for the examination within the 60 days will be considered a failure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 23:1445 (July 2000), amended by the Physical Therapy Board, LR 37:

§161. Administration of Examination [Formerly §137]

A. The board's licensing examination is administered by an approved testing service and is computer based. The testing service is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination; to establish and require examinees to observe an appropriate seating arrangement; to provide appropriate instructions for taking the examinations; to fix and signal the time for beginning and ending the examination; to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees; and to take all necessary and appropriate actions to secure the integrity of the examination process.

B. An applicant for examination shall pay the site fee for the examination directly to the testing service at the time of scheduling with the testing service and in the amount and manner prescribed by the testing service.

C. An applicant who appears for examination shall:

1. present to the appropriate representative of the testing service positive personal photographic and other identification in the form prescribed; and
2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the testing service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 26:1445 (July 2000), amended by the Physical Therapy Board, LR 37:

§163. Subversion of Examination Process [Formerly §139]

A. An applicant who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §167 of this Subchapter.

B. Conduct which subverts or undermines the integrity of the examination process includes:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by representatives of the testing service;
2. removing from the examination room or rooms any of the examination materials;
3. reproducing or reconstructing, by copying, duplication, written notes or electronic recording, any portion of the licensing examination;
4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of current, future, or previously administered licensing examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed or recorded materials or data of any kind;

8. impersonating an examinee by appearing for an applicant and taking the examination for, and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination process for other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 26:1445 (July 2000), amended by the Physical Therapy Board, LR 37:

§165. Finding of Subversion [Formerly §141]

A. When, during the administration of examination, there exists reasonable cause to believe that an applicant is engaging, or attempting to engage, in subversion of the exam process, appropriate action shall be taken to promptly terminate such conduct and to report such conduct to the board.

B. In the event of suspected conduct described by §163.B.5 or 6, the suspect applicant shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board has reasonable cause to believe that an applicant has engaged in or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall notify the applicant and provide him with an opportunity for a hearing pursuant to the Administrative Procedure Act and applicable board rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:663 (July 1991), LR 26:1445 (July 2000), amended by the Physical Therapy Board, LR 37:

§167. Sanctions for Subversion of Examination [Formerly §143]

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in or attempted to engage in conduct which could subvert or undermine the integrity of the examination process may be permanently disqualified from taking the examination and from licensure as a PT or PTA in the State of Louisiana.

B. An applicant who is found by the board to have engaged in or attempted to engage in conduct which subverts

or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by §167.A and B, as to an applicant found by the board to have engaged in or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board may:

1. revoke, suspend, or impose probationary conditions on any license which has been issued to such applicant;

2. disqualify the applicant, permanently or for a specific period of time from eligibility for licensure in the State of Louisiana; or

3. disqualify the applicant, permanently from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§169. Passing Score [CGI]

[Formerly §145]

A. The board adopts a criterion-referenced passing point of 600 which is based on a scale ranging from 200 to 800.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A. (1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 21:1243 (November 1995), amended by the Physical Therapy Board, LR 37:

§171. Restriction, Limitation on Examinations, Additional Requirements

[Formerly §§147, 153, and 155]

A. Applicants must successfully pass the examination to obtain a license to practice in Louisiana as a PT or PTA.

B. An applicant, who has failed the examination for the first time, shall have no more than 2 years from the date of the first examination and no more than four attempts to successfully pass the examination.

C. Applicants who have failed the examination on three occasions, shall, prior to re-application:

1. develop and submit to the board a written remediation plan for additional preparation in areas of identified weakness which shall include two or more of the following:

a. practice Exam and Assessment Tool (PEAT) offered by FSBPT;

b. examination Performance Feedback report offered by FSBPT;

c. take a commercial licensure review course;

d. take a board approved continuing education course;

e. work as a technician, either as paid staff or volunteer, under the supervision of a board approved licensed PT;

f. other board approved remediation activity;

2. enter an agreement with the board for an acceptable time table for completion of an approved remediation plan;

3. submit evidence to the board of successful completion of remediation activities with re-application and prior to the scheduling of the examination.

D. No person may be licensed by the board who has failed the examination four or more times, whether or not the examination was taken in Louisiana. Applicants who fail the examination four or more times must repeat an accredited physical therapy or physical therapist assistant education program before reapplying to take the licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A. (1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387, 388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:

Subchapter H. Provisional License

§173. Foreign Graduate Provisional License

[Formerly §159]

A. A foreign PT graduate who possesses all of the qualifications for licensure prescribed by §137 of this Chapter, except for §137.A.3, shall be issued a provisional license to engage in supervised clinical practice under the requirements of §331 for the purpose of fulfilling in whole or part the requirement of §137.A.3.

B. The holder of a provisional license issued under this Section shall not engage in the practice of physical therapy in any respect other than at the physical location for which he is approved by the board.

C. A provisional license issued under this Section shall expire, and thereby become null and void and of no effect, on the date specified by such provisional license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

Subchapter I. License Issuance, Termination, Renewal, Reinstatement

§175. Issuance of License [Formerly §161]

A. If the qualifications, requirements and procedures prescribed by §129 are met, the executive director shall issue to the applicant a license to engage in the practice of physical therapy in the State of Louisiana.

B. A license issued pursuant to examination shall be issued within seven days following the reporting of a passing licensing examination score to the board. A license issued pursuant to reciprocity under §145 shall be issued within seven days following satisfaction of all requirements of §145.

C. A license issued to an applicant for the first time shall be for a term of one year or two years, to be determined by the birth year of the applicant. Thereafter, the term for license renewal shall be two years. Initial licenses issued in odd numbered years (2011, 2013, etc.) for applicants whose

birth year is an odd-numbered year shall be issued for one year. Initial licenses issued in even-numbered years (2012, 2014, etc.) for an applicant whose birth year is an even-numbered year shall be issued for two years.

D. A licensee shall not copy or otherwise reproduce his license or allow another person to copy or otherwise reproduce his license. Evidence of license status may be verified from the board website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2415.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 26:1446 (July 2000), amended by the Physical Therapy Board, LR 37:

§177. Replacement of License

A. The board may issue a license to replace a lost or destroyed license upon receipt of a written request and the appropriate fee from the licensee. The board will issue a new original license after name change upon receipt of a name change form, the appropriate fee, and a copy of the legal document enacting the name change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2415 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§179. Expiration of Licenses [Formerly §163]

A. Licenses issued by the board shall expire, and thereby become void, on April 30 of the last year for which it is issued.

B. The timely, acknowledged receipt of a complete application for license renewal, as provided by §181, or online verification of license renewal operates to continue licensure in full force and effect pending issuance of the renewal license document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2417 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§181. Renewal of License [Formerly §165]

A. Standard procedure for license renewal and the payment of required fees is by online application through the board website.

B. Renewal applications received by March 31 shall be assessed a renewal fee of \$230. Renewal applications received after March 31 and before April 30 shall be assessed a renewal fee of \$400, as provided by law. Renewal applications received after April 30 shall be deemed as applications for license reinstatement pursuant to §185.

C. For transitional purposes, licenses issued for 2011 shall expire on April 30, 2012.

D. For transitional purposes, renewal licenses issued in 2012 shall be for a term of one year or two years, to be determined by the birth year of the licensee. Thereafter, the term for license renewal shall be for two years. Licensees whose birth year ends in an odd number (2013, 2015 etc.) shall renew in odd-numbered years. Licensees whose birth-

year ends in an even number (2014, 2016 etc.) shall renew in even-numbered years.

E. Licensees shall be notified by the board of license renewal deadlines. Upon written request, a renewal application shall be mailed to the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2417 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), amended by the Physical Therapy Board, LR 37:

§183. Restrictions on License Renewal; Restoration

A. As required by R.S. 37:2951, the board will not renew a license if a licensee has defaulted on a loan from the Louisiana Office of Financial Assistance as per R.S. 37:2951. Upon notice from the Louisiana Office of Financial Assistance that a repayment agreement has been established, the license shall be renewed.

B. The board will not renew a license if a licensee has defaulted on court ordered or Attorney General's notice of child support arrearages. Upon receipt of notification that a repayment agreement has been established, the license shall be renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2417 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§185. Reinstatement of Suspended or Revoked License [Formerly §349]

A. An application for reinstatement of a suspended license does not require satisfaction of the requirements for initial licensure.

B. Application for reinstatement of a revoked license must be made in compliance with the requirements of initial licensure in Louisiana, and shall not be heard less than three years from the revocation decision.

C. Prior to reinstatement of a license previously revoked, a hearing shall be held by the board to afford the Respondent an opportunity to present evidence that the cause for the revocation no longer exists and to provide an opportunity for the board to evaluate changes in the Respondent and/or the conditions which caused the revocation.

D. After evaluation, the board may:

1. deny reinstatement of a revoked license;
2. reinstate a revoked license;
3. require the satisfactory completion of a specific program or remedial education approved by the board; and
4. require monitoring of the Respondent's physical therapy practice as specified by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§187. Reinstatement of Lapsed License [Formerly §167]

A. An expired license may be reinstated pursuant to the requirements set forth below.

B. A licensee who fails to timely renew his license as provided in §181 shall submit:

1. a complete reinstatement application;
2. the renewal fee of \$400;
3. the reinstatement fee of \$75; and
4. an explanation for the failure to timely renew his license.

C. Reinstatement pursuant to this Section shall also require that applicant or his employer reimburse or reverse charges which have been made for patient treatment during the period for which the applicant did not have a current and valid license.

D. Reinstatement pursuant to this Section does not insulate the applicant from disciplinary action which the board finds appropriate for practicing without a current license after April 30 to the date of reinstatement.

E. A licensee who allows his license to lapse for reasons other than §187.B shall submit:

1. a complete reinstatement application;
2. the renewal fee of \$230;
3. the reinstatement fee of \$75;
4. pass the board's online jurisprudence examination;
5. an explanation for allowing his license to lapse;
6. two letters of character recommendation from reputable currently licensed physical therapists, physicians, dentists, podiatrists, or chiropractors; and
7. verification of licensure from all states in which the applicant has applied for or held a license/permit.

F. To be eligible for license reinstatement under this Section, an applicant shall have met the continuing education requirements pursuant to §194 within the 24 months preceding his application.

G. Any person whose license has lapsed for more than five years may apply for reinstatement of licensure upon payment of the renewal fee and the reinstatement fee under the following conditions:

1. licensee shall be subject to a three month period of supervised clinical practice;
2. licensee may only practice under the direct on-site supervision of a board approved PT who has practiced no less than three years with a Louisiana license in good standing;
3. completion of the General Practice Review Tool offered by the FSBPT and satisfactory completion of continuing education courses indicated by that tool to bring the Applicant's knowledge to current standards.
4. a supervision agreement must be approved by the executive director before a provisional license will be issued. The supervision agreement shall be in force for the entire three month supervisory period. This licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the change taking place. At the end of the supervisory period, the Supervising PT of Record shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the Supervising PT of Record, the board, in its discretion, may require an additional three month supervisory period; and
5. completion of remedial courses which may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:1979 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:

§189. Reinstatement after Military Service

A. An applicant seeking reinstatement of a license which lapsed during active military service shall be required to pay a license renewal fee only, and that fee shall be proportional to the months remaining in his renewal cycle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

Subchapter J. Continuing Education

§191. Purpose

A. To be approved by the board, a continuing education course or activity as defined in §123, must contribute directly to the professional competence of the licensee and must directly relate to the skills and knowledge required to implement the principles and methods of physical therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§193. Course Approval [Formerly §169]

A. Only courses and activities approved in advance by the board will generate acceptable continuing education credits for licensees. All proposed continuing education courses or activities shall be submitted in advance of presentation to the board for approval on a form provided on the board website. Sponsors of continuing education courses and activities or licensees seeking course approval should look to the board website for guidance on lead time required for review of submissions. Generally, courses or activities of longer duration will require more time for review than courses of short duration.

B. Charges for course or activity review for possible approval shall be set forth on the board website.

C. Course or activity sponsors may be required to submit to the board verified records of attendance and completion of the course or activity.

D. Consideration of courses or activities for approval shall be based on the content criteria set forth in §197.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:

§194. Biennial Requirements [Formerly §169]

A. Unless exempted under §198, licensees shall successfully complete, document and report to the board at least 30 hours of board-approved continuing education courses or activities in the biennial renewal period. No carryover of continuing education hours from one renewal period to another shall be allowed. Continuing education will be granted in the reporting period in which the academic

coursework, clinical instruction, tool, residency, or fellowship is completed.

B. The four types of approved courses or activities and requirement for each are:

1. jurisprudence—a minimum of 2 contact hours;
2. ethics, professionalism or Practice Review Tool—a minimum of 2 contact hours;
3. clinical/preventive—a minimum of 20 contact hours;
4. administrative—a maximum of 6 contact hours. Additional clinical/preventive hours may be substituted for administrative.

C. No more than 10 hours of continuing education submitted to the board shall be home study, internet or online courses or by other distance learning methods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:

§195. Content Criteria [Formerly §169]

A. Course or activity content shall address physical therapy competence and practice and shall be designed to meet one of the following goals:

1. update knowledge and skills required for competent performance beyond entry level of the PT or PTA at the time the licensee entered the profession;
2. allow the licensee to enhance his knowledge and skills;
3. provide opportunities for inter-disciplinary learning;
4. extend the limits of professional capabilities and opportunities; and
5. facilitate personal contribution to the advancement of the profession.

B. Required continuing education, as defined in §123, shall include the following:

1. passage of the jurisprudence examination, which may be taken online, or attendance at a traditional board-sponsored Jurisprudence course, either of which fulfills the two hour Jurisprudence requirement;
2. a minimum of two contact hours related to ethics, professionalism, or use of the FSBPT Practice Review Tool;
3. a minimum of 20 contact hours of clinical/preventive courses or activities in increments of no less than two contact hours, including:
 - a. teaching an approved clinical/preventive course or activity. A licensee may receive two hours of credit for each contact hour approved for the course or activity, not to exceed 10 hours. This credit will be given only for the first time the course is presented;
 - b. ten hours of credit for an initial certification by the American Board of Physical Therapy Clinical Specialties;
 - c. one hour of credit for every two hours spent in an approved post-professional clinical residency or fellowship, not to exceed ten hours credit.
4. licensees may obtain credit for no more than six contact hours for administrative courses or activities.

Administrative courses or activities may include any combination of the following:

- a. a course or activity designed to enhance skills in management of a physical therapy practice;
- b. a maximum of five hours credit for clinical instructors serving as the primary clinical instructor for PT and PTA students or provisional licensees. One hour credit may be earned per 120 hours of clinical instruction during the renewal period. Proof of clinical instruction is a certificate from the student's school documenting the number of hours of clinical supervision completed;
- c. a maximum of five clinical hour credit during the renewal period for publication of scientific papers, abstracts, textbook chapters and poster or platform presentations at conferences relating to PT. Textbook chapter credit will be given only for the year of publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:

§197. Reporting Requirements; Audit [Formerly §171]

A. It is the responsibility of each licensee to assure that his continuing education hours are timely reported with his license renewal application.

B. The reporting of continuing education hours by course or activity sponsors and by licensees shall be made only on forms approved by and available from the board website. Forms filed by course or activity sponsors or licensees shall be legibly printed or typewritten, and shall be completed and verified by the course or activity sponsor or licensee.

C. Continuing education activities undertaken for the purpose of license renewal shall be maintained by the licensee in a file in which records of activities are kept, including dates, subjects, duration of the program, certificates of participation and completion, and any other appropriate documentation for a period of four years after the program date. Upon request, course or activity sponsors and licensees shall supply the board with such documentation.

D. The board shall conduct an audit of the continuing education records of a number of the licensees to be determined by the board each renewal period. The board will notify licensees who are randomly selected for audit to determine compliance with the continuing education requirements. Licensees chosen for the audit shall submit to the board by the specified date copies of all records and documentation showing completion of the continuing education courses or activities previously submitted for fulfillment of continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended LR 19:208 (February 1993), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:

§198. Exemptions from CE Requirements [Formerly §173]

A. PTs or PTAs licensed in Louisiana are exempt from the Subchapter J continuing education requirements for the calendar year in which they graduate from an accredited physical therapy education program. For the remainder of the licensee's renewal period, 15 contact hours must be completed and reported in keeping with the requirements of §194.

B. Upon approval by the board of a written request made in compliance with Subsection C, the board may extend the period for compliance or exempt the following from compliance with the Subchapter J. continuing education requirements:

1. licensees on extended active military service for a period in excess of three months during the applicable reporting period; or

2. licensees who are unable to fulfill the requirement because of illness, natural disaster, or other personal hardship.

C. Written requests for an exemption under Subsection B, including supporting documentation, must be received by the board at least 45 days prior to the end of the renewal period for which the exemption is sought, or immediately after the licensee becomes aware of the facts or circumstances upon which the exemption is sought, whichever is later.

1. A licensee who is a member of the armed forces reserves and called to active military service will have his CEUs prorated in proportion to the number of months of documented active duty.

2. A licensee whose license expires during a period of active military service will be given a complete waiver of continuing education requirements for the renewal period in which he is activated. Active duty military personnel shall be exempt proportionally for continuing education for months of documented active service in the renewal cycle during which active military service terminates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 17:665 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 34:1908 (September 2008), amended by the Physical Therapy Board, LR 37:

§199. Noncompliance and Reinstatement [Formerly §175]

A. Noncompliance. Noncompliance with continuing education requirements includes, but is not limited to, incomplete reports, unsigned reports, unsigned verification of course or activity completion, failure to report a sufficient number of approved continuing education hours as defined in §193, or any other matters considered to be noncompliance by the board.

B. Notice. The board shall send written notice of noncompliance to a licensee stating that his license has lapsed for failure to renew pursuant to R.S. 37:2417. The notice shall request that the licensee furnish to the board within 30 days of receipt of the notice, the following:

1. a written explanation for failure to complete required CE; or if applicable;

2. an affidavit with documentary proof that the licensee has complied with the continuing education requirements, or an affidavit setting forth the reasons for failure to comply with the continuing education requirements because of illness, natural disaster, other personal hardship or extended active military service during the reporting period and stating that he did not provide physical therapy services during that period.

C. Finding. If the licensee:

1. satisfactorily explains the failure to renew, his license may be reinstated upon payment of the renewal fee for the current renewal period and the reinstatement fee; or

2. does not successfully establish compliance or acceptable exemption from compliance with continuing educational requirements, he may be required to take the licensing examination and pay the fees for examination and re-licensure. Passage of the examination fulfills the continuing education requirements for the year the noncompliance occurred, but shall not be applicable for subsequent reporting periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended by the Physical Therapy Board, LR 37:

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§301. Scope of Chapter [Formerly §301]

A. The rules of this Chapter govern the practice of physical therapy in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2407 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Physical Therapy Board, LR 37:

§303. Professional Standards [Formerly §§307, and 315]

A. A licensed PT is authorized to engage in the practice of physical therapy as set forth in the Practice Act and the board's rules which includes, but is not limited to, the performance of physical therapy evaluations, consultative services, wound care and debridement, the storage and administration of aerosol and topical agents, the performance of passive manipulation, and preventive services all as more fully defined in §123.

B. A PT is responsible for managing all aspects of the physical therapy care of each patient.

C. A PT shall exercise sound professional judgment based upon his knowledge, skill, education, training, and experience, and shall perform only those procedures for which he is competent. If, during evaluation, reassessment or screening, the PT finds that treatment which is outside the scope of his knowledge, experience, or expertise is needed, the PT shall notify the patient or client and provide a referral to an appropriate healthcare practitioner.

D. Before working in a school or home health setting, a PTA shall have one year of supervised work experience.

E. A PTA may act as a Clinical Instructor for a PTA student, provided the PTA has one year of supervised work

experience in the practice setting in which he will act as the Clinical Instructor for the PTA student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 34: 1909 (September 2008), amended by the Physical Therapy Board, LR 37:

§305. Practice with Prescription or Referral

A. Except as set forth in R.S. 37:2418.C and §307.C, physical therapy treatment shall be based on the prescription or referral of a person licensed to practice medicine, surgery, dentistry, podiatry, or chiropractic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§307. Physical Therapy Services without Prescription or Referral [Formerly §306]

A. These rules are intended to facilitate and implement the provisions of R.S. 37:2418.C through C(5). They are meant as practical guidelines, while maintaining flexibility in the rendering of physical therapy services, without eliminating the opportunity for oversight and supervision.

B. As used in connection with providing wellness or preventive services referred to in R.S. 37:2418 C(4), the PT shall:

1. perform a screening to determine whether treatment or wellness/preventive services are indicated. The therapist shall inform the individual of the screening results and make recommendations for follow-up with the appropriate health care provider if needed;

2. assess the client's wellness/preventive services needs, and, if such services are indicated and desired by the client, develop a written plan, which describes the services to be provided to the client.

C. Regarding physical therapy treatment provided pursuant to R.S. 37:2418.C(5):

1. physical therapy treatment for a diagnosed condition or conditions may be provided after the PT has determined that the condition has been diagnosed within the preceding 90 days by a health care provider authorized by law to make a diagnosis.

2. the PT shall provide to the diagnosing healthcare provider, the plan of care for physical therapy services within 15 days of the physical therapy intervention, as set forth in R.S. 37:2418(C)(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 31:441 (February 2005), amended by the Physical Therapy Board, LR 37:

§309. Early Childhood Services

A. In the provision of early childhood services through the Early Childhood Intervention (ECI) program, the PT conducts appropriate screenings, evaluations, and assessments to determine needed services to fulfill family-centered goals.

B. Subject to the provisions of this Section, the PT shall implement physical therapy services in accordance with the recommendations accepted by the Interdisciplinary Team, as stated in the Individual Family Service Plan.

C. Evaluation and reevaluation in the educational setting will be conducted in accordance with federal mandates under Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1436, or when warranted by a change in the child's condition, and include onsite reexamination of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§311. Treatment with Dry Needling

A. The purpose of this rule is to establish standards of practice, as authorized by R.S. 37:2405 A.(8), for the utilization of dry needling techniques, as defined in §123, in treating patients.

B. Dry needling is a physical therapy treatment which requires specialized physical therapy education and training for the utilization of such techniques. Before undertaking dry needling education and training, a PT shall have no less than two years experience working as a licensed PT. Prior to utilizing dry needling techniques in patient treatment, a PT shall provide documentation to the executive director that he has successfully completed a board-approved course of study consisting of no fewer than 100 hours of face-to-face instruction in intramuscular dry needling treatment and safety. Online and other distance learning courses will not satisfy this requirement. Practicing dry needling without compliance with this requirement constitutes unprofessional conduct and subjects a licensee to appropriate discipline by the board.

C. In order to obtain board approval for courses of instruction in dry needling, sponsors must document that instructors utilized have had no less than two years experience utilizing such techniques. Instructors need not be physical therapists, but should be licensed or certified as a healthcare provider in the state of their residence.

D. A written informed consent form shall be presented to a patient for whom dry needling is being considered, telling the patient of the potential risks and benefits of dry needling. A copy of a completed form shall be preserved in the patient treatment record and another copy given to the patient.

E. Dry needling treatment shall be performed in a manner consistent with generally accepted standards of practice, including sterile needle procedures and the standards of the U.S. Centers for Disease Control and Prevention. Treatment notes shall document how the patient tolerated the technique and the outcome of treatments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§313. Transfer of Patient Care

A. A PT shall transfer and document the continuum of care of the patient, as appropriate, to another health care provider in the event of elective termination of physical therapy services by the PT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§315. Legend Drugs and Devices

A. In providing physical therapy as authorized by law, PTs are authorized to procure from licensed distributors, store and utilize legend devices and topical legend drugs which are employed in the delivery of physical therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§317. Licensee Information

A. Changes to licensee information. Applicants and licensees must notify the board in writing of any change in a residential or business address, telephone number or email address within 30 days that such change takes effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2415 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

Subchapter B. Prohibitions

§321. Unauthorized Practice; Practice Restrictions

[Formerly §307]

A. No person shall engage in the practice of physical therapy in the State of Louisiana unless he has a current license or provisional license duly issued by the board under Chapter 1 of these rules.

B. A licensed PTA shall not interpret referrals or prescriptions for physical therapy, perform evaluations, initiate or adjust treatment programs, or assume the responsibility for planning patient care.

C. Roentgen rays, radium, isotopes, or ionizing radiation shall not be used or administered in physical therapy.

D. A PT may not profess to provide "spinal manipulation" or "spinal adjustment" or use these terms for advertising purposes. However, this Chapter shall preclude other healthcare providers from professing the practice of physical therapy and from the use of the term "physical therapy", "P.T.", or "physiotherapy" for advertising purposes unless licensed under the Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2423 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 34:1909 (September 2008), amended by the Physical Therapy Board, LR 37:

§323. Use of Titles and Terms; Restrictions

[Formerly §307]

A. A PT shall use the letters "P.T." in connection with his name or place of business to denote licensure. A PTA shall use the letters "P.T.A." in connection with his name to denote licensure.

B. A PT student who is pursuing a course of study leading to a degree as a PT in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his physical therapy education shall use the letters "S.P.T." in connection with his name while participating in this program. A PTA student who is pursuing a course of study leading to a degree

as a PTA in a professional education program approved by the board and is satisfying supervised clinical education requirements related to his physical therapist assisting education shall use the letters "S.P.T.A." in connection with his name while participating in this program.

C. No person or business entity, its employees, agents, or representatives shall use in connection with that person's name or the name or activity of the business, the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," "licensed physical therapist," "doctor of physical therapy," the letters "PT," "DPT," "LPT," "RPT," "physical therapist assistant," "P.T.A.," "physiotherapist assistant," or any other words, abbreviations, or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, unless such services are provided by or under the direction of a PT licensed pursuant to the Practice Act.

D. No person or business entity shall advertise or otherwise promote another person as being a "physical therapist," "physiotherapist," "P.T.," "physical therapist assistant," "physiotherapist assistant," or "P.T.A." unless the individual so advertised or promoted is licensed as a PT or PTA under the Practice Act. No person or business entity shall offer, provide, or bill any person for "physical therapy" or "physiotherapy" unless the individual performing those services is licensed pursuant to the Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2419 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Examiners, LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 34:1909 (September 2008), amended by the Physical Therapy Board, LR 37:

§325. Exemptions [Formerly §309]

A. The prohibitions of §321.A of this Chapter shall not apply to a person employed by any department, agency, or bureau of the US Government when acting within the course and scope of such employment, nor shall they prohibit a person from acting under and within the scope of a license issued by an agency of the State of Louisiana.

B. A student shall be exempt from licensure when pursuing a course of study leading to a degree in physical therapy or physical therapist assisting in a physical therapy education program approved by the board and while satisfying a supervised clinical rotation related to his education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 24:40 (January 1998), LR 34:1909 (September 2008), amended by the Physical Therapy Board, LR 37:

Subchapter C. Supervised Practice

§329. Scope of Chapter [Formerly §315]

A. The rules of this Subchapter prescribe certain restrictions and requirements for supervision of physical therapists assistants, provisional licensees, technicians and students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Examiners, LR 19:208 (February 1993), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:

§331. Foreign Graduate Supervised Clinical Practice with Provisional Licensees

[Formerly §§317 and 319]

A. The clinical supervisor must be an APTA certified clinical instructor or, within the three years prior to serving as a supervisor, have previously served as clinical instructor for a PT student as part of a CAPTE accredited program. To be approved as a clinical supervisor, a PT shall have at least three years of clinical experience with an unrestricted license. A clinical supervisor shall not supervise more than one provisional licensee at any given time.

B. Before an individual is issued a provisional license, the applicant shall submit to the board:

1. a signed Statement of Responsibility completed by the requesting clinical supervisor;

2. a signed Statement of Placement completed by the director of physical therapy services at the practice site where the clinical supervised practice will take place which includes the name, address, and telephone number and email address for such person; and

3. a description of the types of physical therapy services provided at the site.

C. The executive director shall approve or deny a request made under §331 after assessing whether the facility provides the opportunity for a provisional license holder to attain the knowledge, skills, and attitudes to be evaluated according to the board's Clinical Performance Evaluation; and determines if the site provides a broad base of clinical experience to the provisional licensee including a variety of physical agents, therapeutic exercises, evaluation procedures, and patient physical therapy diagnoses.

1. Clinical sites are approved on a case-by-case basis.

D. A provisional licensee shall not begin practicing physical therapy until the executive director has approved the clinical supervisor and the work site, and the provisional licensee has completed the personal interview with a board representative, and has received his provisional license.

E. A provisional licensee shall complete a supervised clinical practice at a board-approved clinical site for a minimum of four hours per day, with direct supervision by a board-approved PT.

1. The supervised clinical practice shall consist of no less than 1,000 hours and shall be accomplished at a rate of no more than 40 hours and no less than 20 hours per week.

2. The approved clinical supervisor shall co-sign all of the provisional licensee's treatment documentation within five days of treatment.

F. Supervisor Absence. If, due to illness or continuing education, the board designated Supervising PT of Record cannot fulfill his supervisory obligations for a provisional licensee:

1. if absent for five or fewer consecutive days, another PT in good standing may supervise in his place. In such case, the substitute PT is not required to be approved by the board; however, the board designated supervisor, the substitute supervisor, and the supervised individual, shall all

be held accountable for the care provided by those supervised;

2. if absent for more than five consecutive days, the Supervising PT of Record shall send a written request to the executive director for approval of a substitute supervising PT during his period of absence. The substitution can only occur once written approval is provided by the executive director to the designated supervisor.

G. Required supervised clinical practice shall be:

1. no less than 333 hours in a hospital setting;
2. no less than 333 hours in an out-patient clinic; and
3. no less than 334 hours in one or more of these practice settings: home health, extended care, rehabilitation clinic, school system, or private practice.

H. The approved clinical supervisor shall:

1. observe, assist and support the provisional licensee during the supervised clinical practice;

2. rate the provisional licensee's performance during his clinical practice using criteria in the board's Clinical Performance Evaluation, indicating the dates of observation, demonstration or discussion of each skill;

3. assess skills required for success in such setting with recommendations for improvement upon completion of a supervised clinical practice site;

4. submit the results of the supervised clinical practice to the board in a timely manner. Approval of the next clinical placement or granting of license, shall not take place until this report is received and evaluated by the executive director; and

5. continue with clinical supervision until the supervised individual receives notice of termination of supervision by issuance of permanent license.

I. A provisional licensee shall not supervise any personnel unless assistance is required to ensure the safety and welfare of the patient during ambulation, transfers, or functional activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Examiners, LR 15:388 (May 1989), LR 17:667 (July 1991), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), amended by the Physical Therapy Board, LR 37:

§333. Physical Therapist Responsibilities; Supervision of Physical Therapist Assistants [Formerly §321]

A. A Supervising PT of Record is responsible for and shall participate in the patient's care. Such participation by the PT shall include, at a minimum:

1. conducting the initial patient evaluation and documenting a plan of care for the patient;

2. providing the entire treatment and reassessing the patient at least every sixth treatment day or every 30 days, whichever occurs first;

3. treating the patient for the final treatment session unless the patient is physically unavailable; and

4. writing the discharge summary.

B. A Supervising PT of Record shall comply with the following requirements in providing patient care and in supervising PTAs.

1. The level of responsibility assigned to a PTA pursuant to §333 is at the discretion of the Supervising PT of

Record who is ultimately responsible for the care provided by this PTA.

2. In all settings, the Supervising PT of Record shall:

a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;

b. treat and reassess the patient at least every sixth treatment day or every 30 days, whichever occurs first;

c. treat and assess the patient for his final treatment session when feasible, as defined in §123, and write a discharge summary;

d. be readily accessible by beeper or telephone and available to the patient by the next scheduled treatment session upon request of the patient or PTA; and

e. hold a patient care conference with a PTA regarding the patient. The PT is responsible for determining the frequency of the conferences consistent with accepted standards of practice; however, such conference shall occur at least every sixth treatment day or every 30 days, whichever occurs first.

C. In a wellness setting, after conducting an appropriate screening as to suitability for wellness or preventive services, a PT may delegate the provision of client wellness or preventive services to a PTA or a technician to perform and/or assist in the implementation of wellness services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418.F and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:

§335. Supervision of Physical Therapy Technicians [Formerly §321]

A. The level of responsibility assigned to a PT technician is at the discretion of a Supervising PT of Record who is ultimately responsible for the care provided by the technician. Documentation of education or in-service training completed by the PT technician shall be maintained in the technician's personnel file.

B. The PT technician may:

1. Perform non-treatment-related activities, such as reception, clerical and housekeeping duties without direct supervision;

2. Perform patient assistance activities such as transporting patients, dressing or undressing patients, removing and applying assistive and supportive devices without direct supervision;

3. Assist a PT or PTA when more than one individual is required to ensure the safety and welfare of the patient during ambulation, transfers, or functional activities.

C. The Supervising PT of Record shall provide continuous, on-premise supervision of the technician while the technician is aiding with limited patient care.

D. In a wellness setting, after conducting an appropriate screening as to suitability for wellness or preventive services, a PT may delegate the provision of specified client wellness or preventive services to a physical therapy technician who has appropriate education, training or experience to perform and/or assist in the implementation of

wellness or preventive services. The PT should be available to the technician by phone or other communications device when such assistance is being provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418.F and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:

§337. Clinical Instruction of Student PTs and PTAs
[Formerly §321]

A. A clinical instructor shall provide continuous supervision to a PT or PTA student in all practice settings. A PTA may act as a clinical instructor for a PTA student in all practice settings provided that the PT supervisor of the PTA is available by telephone or other communication device.

B. A PTA can be a clinical instructor for the PTA student provided the PTA has one year of experience in that practice setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418.F and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:

§339. Limitation on Supervision Ratios
[Formerly §321]

A. Supervision Ratio. It is the responsibility of each PT to determine the number of PTAs he can supervise safely; however, in no case shall the number of individuals supervised by a PT exceed five individuals, nor exceed the following limitations as to supervised personnel:

1. no more than four PTAs or technicians or any combination thereof;
2. no more than one provisional licensee; or
3. no more than five students.

B. The supervision ratio total is inclusive of all geographic locations or employing agencies. The Supervising PT of Record may temporarily delegate the supervision of PTAs to an alternate Supervising PT of Record who agrees to provide consultation to the PTA(s) for existing plans of care for up to seven days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418.F and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:

§341. Documentation Standards [Formerly §323]

A. A written record of physical therapy treatment shall be maintained for each patient. A complete record shall include written documentation of prescription or referral, initial evaluation, treatment(s) provided, PT/PTA

conferences, progress notes, re-evaluations or re-assessments, and patient status at discharge all as defined in §123.

1. A prescription or referral is a written request for physical therapy evaluation or treatment signed by a healthcare provider lawfully authorized to make such request which may initially be a verbal order but must be later confirmed in writing. The verbal order shall be documented by the PT in the patient's record. If the verbal order is not confirmed in writing, then the PT shall send a written communication requesting a written prescription or referral to the prescribing practitioner within 15 days of commencement of treatment or by the fifth treatment session, whichever occurs first. A copy of the written communication to the prescribing or referring practitioner must be maintained in the patient's record.

2. An initial physical therapy evaluation is the written documentation using physical and cognitive findings, objective tests and measurements, patient history, pertinent medical diagnosis, signs, symptoms, and the PT's interpretation of such findings, as well as goals and a written treatment plan or program as defined in §123. The initial physical therapy evaluation shall be documented and signed by the PT performing the evaluation within seven days after performing the evaluation. An initial physical therapy evaluation shall not be documented or signed by a PTA or any other personnel.

3. Progress note is the written documentation of the patient's subjective status, changes in objective findings, and progression or regression toward established goals. A progress note shall be written and signed only by the Supervising PT of Record or PTA and shall not be written or signed by a PT technician. A progress note shall be written a minimum of once per week, or if the patient is seen less frequently, then at every visit.

4. Re-assessment or Re-evaluation is the written documentation which includes all elements of a progress note as well as the interpretation of objective findings compared to the previous evaluation with a revision of goals and treatment plans as indicated. A reassessment must be written at least once per month, or, if the patient is seen less frequently, then at every visit. A reassessment shall be written and signed by the Supervising PT of Record and shall not be written or signed by a PTA or other personnel.

5. Treatment Record is the written documentation of each patient visit which includes specific treatment and/or any equipment provided which shall be signed or initialed by the Supervising PT of Record or PTA. A treatment record shall be maintained only if a progress note is not written for each patient visit. A treatment record may be in the form of a checklist, flow sheet, or narrative.

6. Patient Care Conference is the written documentation of the face-to-face meeting held to discuss the status of a patient. A written record of the conference shall be signed and dated by the PT and PTA and shall be entered in the patient treatment record at the time of the conference, documenting treatment recommendations and decisions made.

7. Discharge Summary is the written documentation of the reasons for discontinuation of care, degree of goal achievement and a discharge plan which shall be written and signed by the Supervising PT of Record. A discharge

summary shall not be written or signed by a PTA or other personnel. A discharge summary shall be written at the termination of physical therapy care.

B. A licensee shall maintain accurate patient treatment and billing records and shall not falsify, alter, or destroy such records, the result of which would be to impede or evade investigation by the board or other lawful authorities.

C. The documentation standards set forth above do not mandate a particular format; however, a complete physical therapy record must include these elements.

D. A signature stamp shall not be used in lieu of a written signature on physical therapy patient records. Forms of electronic signatures, established pursuant to written policies and mechanisms to assure that only the author can authenticate his own entry, are acceptable.

E. Documentation by a student must be co-signed by the Supervising PT of Record or supervising PTA.

F. A written record of an initial screening for wellness or preventive services shall be kept along with plans for implementation of a wellness or preventive program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:

Subchapter D. Disciplinary Proceedings

§343. Sanctions in Disciplinary Proceedings

[Formerly §325]

A. The board, after due notice and hearing as set forth herein and in the Louisiana Administrative Procedure Act, R.S. 49:950 and following, may refuse to issue a license or provisional license, or may suspend, revoke, or impose probationary conditions and/or restrictions on a licensee upon finding that the licensee has violated the Practice Act, or any of the Rules promulgated by the board.

B. Board orders in disciplinary proceeding may require the Respondent to reimburse the board for travel, meals, per diem, the cost of investigators, stenographers, attorneys, and other reasonably associated costs.

C. In placing a Respondent on probation, the board may impose such additional terms, conditions and restrictions as it deems appropriate for the period of probation. The board shall specify in its order the exact duration of the probationary period. Upon finding that a Respondent placed on probation has failed to comply with the terms and conditions of the board order, the board may take such additional disciplinary action as it deems appropriate, following notice and hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§345. Unprofessional Conduct [Formerly §327]

A. The board will consider any charge of conduct which fails to conform to the Practice Act, and board rules to carry out the provisions of the Act and will take appropriate action

where violations are found. The rules of this Chapter complement the board's authority to deny, suspend, revoke or take such other action against a licensee, as it deems appropriate.

B. As used in R.S. 37:2420.A (7) of the Practice Act and in these Rules, the term unprofessional conduct includes but is not limited to:

1. departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice in the State of Louisiana or the Code of Ethics and related documents of APTA, or the commission of any act contrary to honesty, justice, good morals, patient safety or the best interest of the patient, whether committed in the course of the licensee's practice or otherwise, regardless of whether actual injury to a patient results therefrom, including, but not limited to:

a. failure to use sound professional judgment;

b. performing procedures for which the licensee lacks competence; or

c. failure to inform and refer the patient or client to an appropriate practitioner, when the licensee becomes aware of findings and/or the need for treatment which are outside the scope of the PT's competence;

2. improperly delegating or supervising—a PT retains responsibility to his patient for the training, delivery and results of physical therapy services rendered to his patient. A PT shall not:

a. delegate professional responsibilities to a person the PT knows, or has reason to know, is not qualified by education, training, experience or licensure to perform; or

b. fail to exercise appropriate supervision over a person who is authorized to practice only under PT supervision;

3. failing to create or maintain medical record—a licensee shall create and maintain adequate and legible patient records. In addition, a licensee shall:

a. not falsely create or alter a medical record or destroy a medical record except as authorized by law;

b. upon receipt of proper authorization, and in conformity with R.S. 40:1299.96, make patient medical records in the PT's possession available within a reasonable period of time to the patient, the patient's representative, or another physician or licensed health care provider;

c. make arrangements for patient access to medical records created by the licensee after relocating or closing a physical therapy practice, retiring, or being prohibited from practice by order of the board;

d. make arrangements, or assist another PT practicing in the same group to make arrangements, for access by a patient to his medical records after the PT has left a physical therapy practice, relocated a practice to a new location, closed a practice, or retired;

e. insure proper destruction of medical records by methods approved by state or federal authorities; and

f. not abandon or desert medical records;

4. exercising undue influence—a PT shall exercise his professional judgment in the best interest of his patients. A licensee shall not:

a. place his or her own financial gain over the interest and welfare of a patient in initiation or continuation of physical therapy services that are contraindicated or cannot reasonably result in a beneficial outcome; or

b. exercise influence over a patient in such a manner as to abuse or exploit the physical therapy provider/patient or client relationship for the purpose of securing personal compensation, gratification, gain or benefit of any kind or type, unrelated to the provision of physical therapy services;

5. sexual misconduct—inappropriate sexual or intimate conduct, includes, but is not limited to sexual intimacy, contact, exposure, gratification, abuse, exploitation or other sexual behavior with or in the presence of a patient or any other individual in connection to the licensee's practice of physical therapy regardless of consent by the patient. Such conduct may be verbal, physical, visual, written or electronic, or it may consist of expressions of thoughts, feelings or gestures that are sexual or reasonably may be construed by a patient or other individual as sexual or which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or another individual. Sexual misconduct between a licensee and a former patient after termination of the therapist–patient relationship may also constitute unprofessional conduct if the sexual misconduct is a result of the exploitation of trust, knowledge, influence or emotions derived from the professional relationship;

6. disruptive behavior—aberrant behavior, including but not limited to harassment, sexual or otherwise, manifested through personal interaction with employees, co-workers, hospital personnel, health care professionals, patients, family members or others, which interferes with patient care or could reasonably be expected to interfere with the process of delivering quality care or jeopardizing patient safety;

7. conviction of any crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or related to the practice of physical therapy;

8. engaging in conduct which results in an arrest and the initiation of criminal prosecution, even if criminal charges are eventually lessened or dropped, when the conduct leading to the arrest can be verified and constitutes behavior which could put the person or property of patients at risk of harm from a treating licensee;

9. utilizing dry needling techniques in patient treatment without first obtaining appropriate specialized training and education as required by §311 and providing acceptable documentation of such specialized education to the board.

10. making or participating in any communication, advertisement, or solicitation which is false, fraudulent, deceptive, misleading or unfair in violation of board rules, or which contains a false, fraudulent, deceptive, misleading or unfair statement or claim;

11. disclosure to a third party not involved in a patient's care, of information or records relating to the physical therapy provider–patient relationship, except when such disclosure is authorized by the patient or when required or permitted by law;

12. failing to submit to physical or mental examination or for drug screening or testing at the time and place directed by the executive director pursuant to §373 or as otherwise provided in the rules;

13. failing to timely notify the board of a name change, or change in business or home address, telephone numbers or email addresses as required by R.S. 37:2415.B.

C. By implementing the meanings set forth in these rules, the board does not intend to restrict and reserves its authority and right to take action based upon R.S. 37:2405(B)(10), in any instance in which the particular facts and circumstances of a complaint, investigation or adjudication rise to a level of conduct that the board may in its discretion, finds to be unprofessional conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:

§347. Fraud or Misrepresentation [Formerly §327]

A. A person who "attempts to or attains a license by fraud or misrepresentation," as used in R.S. 2420.A (2) of the Practice Act, includes a person who:

1. makes any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to an application for a license under Chapter 1 of these rules; or

2. makes any representation, or fails to make a representation or engages in any act or omission, the result of which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license required by Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:

§349. Commission of a Felony [Formerly §327]

A. As used in R.S. 37:2420.A (4) of the Practice Act, a "felony" is a crime defined as such under the laws of the US, or of any state. The term "convicted", as applied to a licensed PT or PTA, or an applicant for such license is a judgment entered against such person by a court of competent jurisdiction on the basis of a finding or verdict of guilty or a plea of guilty or nolo contendere. Such a judgment provides cause for administrative action by the board so long as it has not been reversed by an appellate court of competent jurisdiction, notwithstanding that an appeal or other application for relief from such judgment may be pending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:

§351. Substance Abuse and Habitual Intemperance [Formerly §327]

A. As used in R.S. 37:2420.A (5) of the Practice Act, "habitually intemperate" means:

1. repeated excessive use or abuse of alcohol; or
2. the ingestion, self administration, or other use of legally controlled substances or medications which affect the central nervous system, other than pursuant to and used in accordance with a lawful prescription and/or medical advice.

B. As used in R.S. 37:2420.A of the Practice Act, the phrase "abused controlled dangerous substances as defined by federal or Louisiana law" means physiological or psychological dependence on any legally controlled substance or medication with a potential for inducing physiological or psychological dependence or tolerance.

C. A Respondent shall appear for drug screening and testing at the facility designated by the executive director within six hours of initial contact by the board representative sent to the telephone number or email address designated for such purposes by Respondent pursuant to §355, or as otherwise provided in the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:

§353. Alternative to Disciplinary Proceedings

A. Under the provisions of R.S. 37:911 and following, the board has the authority to establish and implement Recovery programs for PTs and PTAs as an alternative to the disciplinary process. The RPTP is established to assist board licensees who have demonstrated actual or potential inability to practice physical therapy with reasonable skill and safety to patients because of the use of alcohol or drugs, because of illness, or as a result of any mental or physical condition. The goal of the RPTP is for PTs or PTAs to be treated and to return to practice in a manner which will not endanger public health, safety and welfare.

B. The purpose of the RPTP is to encourage voluntary participation of PTs or PTAs in appropriate rehabilitative medical treatment and ongoing aftercare and monitoring. When disciplinary proceedings have been initiated or could be initiated against a licensee pursuant to R.S. 37:2401–2424, such proceedings may be deferred or suspended to allow the licensee to participate in the RPTP.

C. Upon receipt of a complaint which involves practitioner, the executive director shall refer the practitioner for participation in the RPTP. Only PTs or PTAs whose conditions have reliable indicators for return to safe practice will be eligible for participation in the RPTP.

D. In addition to providing an alternative to discipline, the RPTP accepts licensees who have been diagnosed with a physical, and/or mental impairment, or substance abuse and/or dependency and are already subject to discipline ordered by the board.

E. The RPTP may be administered by board staff directly or the board may delegate to a qualified outside contractor the administration and operation of all or part of RPTP on such terms as it deems prudent. Such contractor shall be charged with the powers and responsibilities set forth in these rules.

F. The board shall cooperate with a contract operator of RPTP and shall act responsibly to meet its obligations under the Practice Act, board rules, RPTP agreements and contracts with outside contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Hospitals, Physical Therapy Board, LR 37:

§355. Objectives of RPTP

A. The RPTP objectives are:

1. to ensure the health, safety and welfare of the public through a program which closely monitors practitioners whose capacity to practice physical therapy with reasonable skill and safety to patients has been, or may potentially be, compromised because of the use of alcohol or drugs, because of illness, or as a result of any mental or physical condition;

2. to promote safe physical therapy care by preventing and/or restricting the practice of the chemically, physically, and/or mentally impaired PT or PTA; and

3. to provide a structured program for PTs and PTAs seeking recovery from the impairment through a non-punitive process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§357. Admission to RPTP as an Alternative to Disciplinary Proceedings

A. Participation in RPTP is voluntary and may be in place of formal disciplinary proceedings for licensees with no previous disciplinary action involving impairment by any licensing authority.

1. Involvement by the licensee in the non-disciplinary alternative will remain confidential as long as the licensee complies with all stipulations of the RPTP agreement.

2. Admission criteria include:

- a. a Louisiana licensed PT or PTA;

- b. a graduate of a school of physical therapy or physical therapist assisting eligible for licensure in Louisiana;

- c. a PT or PTA currently enrolled in a peer assistance/alternative program in another jurisdiction and requesting licensure in Louisiana;

- d. a voluntary request for admission to RPTP whether referred by self or other sources;

- e. addiction to or use of alcohol and/or other mood altering substances including prescription drugs, or has a physical or mental condition, which impairs or potentially impairs the ability of the practitioner to perform duties safely;

- f. has no criminal convictions or pending criminal charge that involves violence or danger to another person, or involves a crime which constitutes a threat to patient care;

- g. no diversion of chemicals for the purpose of sale or distribution;

- h. no dealing or selling of illicit drugs;

- i. no co-existing untreated physical, emotional or psychiatric problems which would impair physical therapy competency;

- j. no related practice problems involving death or significant harm to a patient; and

- k. agrees to comply with all RPTP requirements and signs the RPTP Agreement including a statement acknowledging chemical dependency or other impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§359. Discretionary Authority

A. The board may order an individual with an active disciplinary order into the RPTP as stipulated in a board order.

B. The board may cause to be made non-confidential the records, files and information related to a successfully completed RPTP in the event that a former participant becomes the subject of a subsequent disciplinary action for violation of the Practice Act or board rules related to substance abuse and/or chemical dependency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§361. RPTP Non-compliance

A. When a licensee ceases to be in compliance with his RPTP Agreement, he shall be referred back to the board for regular disciplinary proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§363. Licensees Leaving the State

A. A RPTP participant who moves from Louisiana to another state with an alternative program shall have records transferred to that program.

B. A RPTP participant who moves to a state where there is no alternative program shall have his records transferred to the licensing board in the receiving state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§365. Licensure of Persons with a History of Substance Abuse

A. The board may deny a license to or discipline an applicant/respondent who has been found to have a history of substance abuse.

B. In review of a complaint alleging intemperate use of drugs or alcohol by a respondent/applicant, the board shall consider the following evidence in determining the respondent's/applicant's present fitness to practice physical therapy:

1. documentation demonstrating the degree of sobriety obtained;
2. documentation showing completion of a drug or alcohol rehabilitation program;
3. evidence of participation in board-accepted aftercare;
4. a current status report from a drug/alcohol abuse counselor or board-accepted aftercare sponsor; and
5. notarized letters of recommendation.

C. The burden to provide the foregoing documentation to the board shall be solely at the expense of the respondent/applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§367. Substance Abuse Recovery Program [Formerly §355]

A. Licensees may be required to submit to medical evaluation by a board-approved medical professional to determine competence and possible impairment.

B. In lieu of suspension or revocation of a license or the denial of an application for a license, to practice physical therapy or physical therapist assisting, the board may permit an applicant or licensee to actively participate in a board-approved Substance Abuse Recovery Program (SARP) if:

1. the board has evidence that the applicant or licensee is impaired, which includes substance abuse;

2. the applicant or licensee has not been convicted of a felony relating to substance abuse, which includes alcohol or drug abuse, in a court of law of the US or a court of law of any state or territory, or another county;

3. the applicant or licensee enters into a written Consent Order with the board for a license with appropriate restrictions and he timely complies with all the terms of the Consent Order, including maintaining satisfactory progress in the SARP and adhering to limitations on the licensee's practice imposed by the board to protect the public; and

4. as part of the Consent Order, the applicant or licensee shall sign a waiver allowing the SARP to release information to the board and to report to the board if the applicant or licensee does not comply with the requirements of the Consent Order or the SARP or is unable to practice or work with reasonable skill or safety.

C. Failure to voluntarily enter into a Consent Order pursuant to this Rule shall precipitate the board's right to pursue formal disciplinary action against the applicant or licensee which may result in denial, suspension, or revocation of a license to practice physical therapy or physical therapist assisting after due notice and hearing.

D. Failure to comply with the requirements of the Consent Order, the SARP, or the inability to practice physical therapy competently and safely shall result in denial, suspension or revocation of a license to practice summarily or after due notice and hearing.

E. The applicant or licensee shall be responsible for all costs associated with the Consent Order, evaluation, treatment, and monitoring of the SARP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 28:1981 (September 2002), amended by the Physical Therapy Board, LR 37:

§369. Abuse of Referrals [Formerly §327]

A. Violation of R.S. 37:1745 will subject a PT to disciplinary action. R.S. 37:1745 provides, in pertinent part:

"(2) Healthcare provider" means a person, partnership, or corporation licensed by the state to provide health care or professional services as a physician, chiropractor, dentist, dental hygienist, podiatrist, optometrist, physical therapist, psychologist, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any officer, employee, or agent thereof acting in the course and scope of his employment.

(B) No health care provider shall offer, make, solicit, or receive payment, directly or indirectly, overtly or covertly, kind as or in-kind, for referring or soliciting patients.

Payments representing a return on investment based upon a percentage of ownership are not considered a direct or indirect payment for the purposes of this Section."

B. As used in R.S. 2420 A.(8) of the Practice Act, the phrase "engages directly or indirectly in the division, transferring, assigning, rebating, or refunding of fees received for professional service with a referring practitioner or any relative or business associate of that referring practitioner" means the exploitation of the physical therapy referral mechanism so that a referring practitioner receives compensation, payment, or anything of value, including but not limited to rental fees in excess of fair market value, or any other unearned monies or value in kind, in return for a patient referral when the referring practitioner does not have an ownership interest in the physical therapy practice involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:

§371. Cease and Desist Orders; Injunctive Relief [Formerly §353]

A. The board may seek to issue in any competent court of law a writ of injunction enjoining any Respondent from unlawfully practicing physical therapy without a license issued pursuant to the provisions of the Practice Act, R.S. 37:2401 and following, and/or any rules promulgated thereto. This injunction shall not be released upon the posting of a bond by the person. The provisions of R.S. 37:2422 shall further govern the use and effect of this procedure.

B. The board is empowered to issue an order to any person or entity engaged in any activity, conduct, or practice constituting a violation of the statute or the rules promulgated by the board, directing that person or entity to forthwith cease and desist from such activity, conduct, or practice. If the person alleged to have violated the Practice Act or the rules is licensed by another Louisiana healthcare provider licensing board, notification of suspected violations of the Practice Act or of board rules shall be sent to the executive director of the board which has issued a license to that healthcare provider for review and response by that board to the Louisiana Physical Therapy Board.

C. If the person or entity to which the board directs a cease and desist order does not cease and desist the prohibited activity, conduct, or practice within the timeframe directed by said order, the board may seek, in any court of competent jurisdiction and proper venue, a writ of injunction enjoining such person or entity from engaging in such activity, conduct, or practice.

D. Upon proper showing by the board that such person or facility has engaged in the prohibited activity, conduct, or practice, the court shall issue a temporary restraining order prohibiting the person or entity from engaging in the activity, conduct, or practices complained of, pending the hearing on a preliminary injunction, and in due course a permanent injunction shall be issued after a contradictory hearing, commanding the cessation of the activity, conduct, or practices determined to be unlawful by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2422 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§373. Violations

A. The following conduct shall also constitute violations the Practice Act and board rules:

1. allowing another person to use a licensee's wall certificate, pocket identification card, license number, or national provider identifier for any purpose other than to identify himself as the lawful holder of those credentials;

2. practicing or enabling practice by an impaired provider—a licensee shall not:

a. engage in the practice of physical therapy while under the influence of a mood-altering substance that compromises the professional judgment or practice or has the potential to compromise the medical judgment or practice. If the board receives apparently reliable information, including but not limited to reports made pursuant to R.S. 37:1745.14, which information or report puts in question a licensee's or applicant's current fitness and ability to practice physical therapy with reasonable skill and safety to patients, the licensee or applicant shall submit to such physical or mental examination, evaluation, test, or drug/alcohol screen as requested by the executive director to determine the licensee's or applicant's fitness and ability to practice physical therapy with reasonable skill and safety to patients. Records of such examinations, evaluations, tests and screens shall be maintained by the board in confidence unless such records are admitted into the record of any adjudication proceeding before the board or subpoenaed by court order;

3. failing to assess and evaluate a patient's status;

4. performing or attempting to perform techniques or procedures for which the licensee is not qualified by education, experience, licensure or training;

5. delegating physical therapy functions or responsibilities to an individual lacking the license ability or knowledge to perform the function or responsibility involved;

6. causing, or permitting another person to cause, physical or emotional injury to the patient, or depriving the patient of his individual dignity;

7. providing treatment interventions that are not warranted by the patient's condition or continuing treatment beyond the point of reasonable benefit to the patient;

8. practicing in a manner which evidences a failure to perform on a continuing basis in compliance with the standards and best practices of the physical therapy profession;

9. providing substandard care as a PTA by exceeding the authority to perform components of physical therapy interventions selected by the Supervising PT of Record or through a deliberate or negligent act or failure to act, whether or not actual injury to any person occurred;

10. abandoning a patient without documenting the transfer of care or by inappropriately terminating the patient/practitioner relationship; or

11. documenting services provided which have not been provided as documented or billing for services which have not been provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2421 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§375. Disciplinary Process and Procedures
[Formerly §329]

A. The purpose of the following rules is to supplement and effectuate the applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 and following, regarding the disciplinary process and procedures. These rules are not intended to amend or repeal the provisions of the Louisiana Administrative Procedure Act, and, to the extent any of these rules are in conflict therewith, the provisions of the Louisiana 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 Respondent did certain acts or omissions and, if he did, whether those acts or omissions violated the Practice Act or board rules; and to determine the appropriate disciplinary action.

D. Pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, the board is required to report certain information, including final adverse actions it has taken against its licensees, to the secretary of Health and Human Services of the US for recordation in the Health Integrity and Protection Data Bank. The board may designate an agent to act on its behalf to report information and submit queries to the Health Integrity and Protection Data Bank as required by Federal law, as may be amended from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 26:2792 (December 2000), amended by the Physical Therapy Board, LR 37:

§377. Initiation of Complaints [Formerly §331]

A. Complaints may be initiated by any person or by the board on its own initiative. A licensee is obligated to report to his supervisor or employer, and to the board, significant violations of the Practice Act, board rules or those set forth in the Code of Ethics and related documents of APTA. Failure by a licensee to report such violations to his supervisor or employer and to the board may subject the licensee to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 19:208 (February 1993), LR 26:1448 (July 2000), amended by the Physical Therapy Board, LR 37:

§379. Emergency Action [Formerly §343]

A. If the board finds that public health, safety, and welfare require emergency action and incorporates a finding to that effect in its order, a summary suspension of a license may be ordered pending proceedings for suspension, revocation or other action. Such proceedings shall be promptly instituted and determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§381. Disposition of Complaints
[Formerly §§333 and 335]

A. Some complaints may be settled informally by the board and the Respondent without a formal hearing. The following types of informal dispositions may be utilized:

1. Disposition by Correspondence. For less serious complaints, the executive director or legal counsel may write to the Respondent explaining the nature of the complaint received. If the Respondent's subsequent response satisfactorily explains the situation, the matter may be dropped. If the situation is not satisfactorily explained, it may be scheduled for an Informal Conference.

2. Informal Conference. An Investigative Committee of the board may conduct an Informal Conference with the Respondent. The Respondent shall be given reasonable notice to participate in the Informal Conference and provided with a description of the issues to be discussed, the possible violations of law or rules and whether admissions by Respondent in the Informal Conference may later be used in a formal hearing.

3. Consent Order. If the Respondent and the board member participating in the Investigative Committee agree on the essential facts and law arising out of the complaint and on sanctions to be imposed on the Respondent, the complaint may be resolved by a Consent Order to be presented by the participating board member or by board legal counsel for approval, amendment or rejection. If accepted by the board and the Respondent, the Consent Order shall be finalized as a board order and shall be reported to the HIPDB and published as a disciplinary action of the board.

B. An Agreement reached between a complainant and a Respondent shall not preclude disciplinary action by the board on the issues raised in the complaint brought to the board.

C. A complaint may be dismissed for the following reasons:

1. the absence of adequate, credible evidence; or
2. other reasons which the Investigative Committee believes are justification for dismissal.

D. When it is the decision of the Investigative Committee to dismiss a complaint, the complainant shall be provided with a letter explanation for dismissal of the complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:390 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§383. Failure to Respond or Cooperate with the Board
[Formerly §341]

A. Licensees shall cooperate with and assist the board in carrying out its duties. A licensee shall, among other matters:

1. respond or provide information or items requested, respond to a subpoena, or complete an evaluation within the time designated by the board or its staff;

2. not attempt to influence the board, its members, staff or agents by means of intimidation, falsehoods or other means prohibited by law;

3. not contact members of the board directly or through others during the pendency of a complaint in an attempt to influence the outcome of an investigation or disciplinary proceeding; and

4. not contact or attempt to contact a complainant or witness for purposes of intimidation or harassment regarding a complaint or an investigation by the board.

B. If the Respondent does not respond to the original communication from the board within ten days of a request by the board, a second letter shall be sent to the Respondent by certified mail, return receipt requested, seeking a response by a specified date.

C. If the Respondent fails to reply to the board's second request or otherwise fails to cooperate with the board, the board shall record the circumstances of the failure to cooperate and shall notify the Respondent of the date for an Informal Conference or Formal Hearing and that failure to appear and participate may result in action which could eventually lead to suspension or revocation of license, or other appropriate sanctions under the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§385. Monitoring of Licensees

A. A Respondent who is required by board order to provide information or perform certain acts will be monitored by a board representative to ensure that the requirements imposed by the board order are met.

B. Respondents working under a board order resulting from disciplinary proceedings shall provide to the executive director their preferred telephone and/or email address for expedited communications regarding compliance with board orders. Once designated by the Respondent, all communication regarding compliance shall be directed by board representatives to that telephone number or email address and the Respondent shall be responsible for responding to such communications within four hours of the time the message was sent to the designated telephone number or email address. Failure of the Respondent to respond to the board representative within four hours shall be grounds for disciplinary action against the Respondent. If the Respondent desires to change the designated means of communication, they shall do so in writing sent to the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:

§387. Formal Hearings [Formerly §337]

A. The board is authorized by R.S. 37:2420, to initiate administrative proceedings against persons to whom it has issued a license to practice as a PT or PTA or against any applicant requesting a license. The board and the Respondent accused of a violation are the parties to the proceeding. The person has the right to appear and be heard, either in person or through counsel; the right to notice, a

statement of what accusations have been made; the right to present evidence and to cross examine; and the right to have witnesses subpoenaed.

B. If the Respondent does not appear, either in person or through counsel, after proper notice has been given, the Respondent is deemed to have waived these rights and the board may proceed with the hearing without the presence of the Respondent.

C. Disciplinary proceedings shall include certain steps, and may include other steps as follows.

1. The board has received or originated a complaint alleging that a licensee or applicant has acted in violation of the Practice Act or board rules. The identity of a complaining party shall not be revealed to the Respondent except when such information is offered as evidence in a formal hearing, is subpoenaed by a court, or is necessary for due process purposes.

2.a. The complaint is investigated by the board's staff or attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. Once the complaint is under investigation, no board member (except board members serving as members of an Investigative Committee) shall receive or review any information relevant to the subject matter of the investigation or communicate with the Respondent or his legal representative, potential witnesses, or any member of the Investigative Committee concerning any issue of fact or law relevant to the investigation. A board member who has served on the Investigative Committee shall not serve as a member of a hearing panel of the board in the adjudication of a case previously investigated by the board member.

b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exist:

i. the conduct complained of is sufficiently serious;

ii. the Respondent, through board correspondence, has been given an opportunity to show compliance with lawful requirements for the retention of his license without restriction as contemplated by R.S. 49:961.C, but the Respondent fails to respond, affirmatively waives the opportunity or provides an unconvincing response to the board's correspondence; or

iii. an Informal Conference is conducted, but fails to resolve all of the issues or reach a Consent Order acceptable to the board and the Respondent.

3. A sworn complaint is filed, charging the violation of one or more of the provisions of the Practice Act and/or board rules and the specific violation thereof.

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 in the form of an Administrative Complaint shall be served on the Respondent by certified mail with return receipt as well as by regular first class mail at the most current address reflected in the official records of the board, or by personal service on the Respondent. Respondent is obligated to provide current contact information to the board as required by §317. If service by certified mail is not effective or is returned unclaimed, attempted personal service does not succeed and attempted

notice at Respondent's email address and telephone number also are unsuccessful, the complaint may be adjudicated by default pursuant to R.S. 49:955.D.

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 ten 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 respondent's request, the board shall provide a more definite and detailed statement.

d. The respondent may file a written answer to the complaint within fifteen days of service, admitting or denying each of the separate allegations. Any matter admitted by the respondent shall be deemed proved and established for the purpose of adjudication. In the event the respondent does not answer the complaint, all allegations will be deemed denied.

e. At any time after service of the administrative complaint, a respondent who chooses to be represented by legal counsel shall provide written notification to the board's prosecuting attorney of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, correspondence, administrative complaints, subpoenas, orders or other process shall be served on Respondent through his counsel of record.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed no less than 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:205 B (10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§389. Issuance of Subpoenas [Formerly §337]

A. The chairman, or an authorized agent of the board, shall issue subpoenas on behalf of the board for disciplinary proceedings and when requested to do so, may issue subpoenas for respondent.

B. Subpoenas include:

1. a subpoena requiring a person to appear and give testimony; and

2. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has control.

C. A subpoena requested by a respondent shall not be issued unless the respondent deposits with the board sufficient money to pay the fees and expenses to which a witness in a civil proceeding is entitled under R.S. 13:3671. In addition, the board shall set the amount of any additional compensation for a witness subpoenaed to testify as an expert based on the value of the time employed and the degree of skill and learning required to formulate and present an expert opinion, which additional compensation shall be paid in advance by the party requesting the subpoena for the attendance of such witness.

D. A motion to limit or quash a subpoena may be filed with the board, but not less than 72 hours before the hour set for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (4) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§391. Conduct of Hearing [Formerly §337]

A. The hearing shall be convened by the board chair or acting board chair at the time, date and place provided in the notice to respondent, at which time the board's primary role is to receive evidence and argument, and to reach a decision. Any board member, who, because of bias or interest, is unable to provide 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 provide a quorum for the proceeding in accordance with R.S. 49:960B.

B. Any objection to the composition of the hearing panel or the qualifications of any member of the hearing panel shall be made and ruled on by the chair before any evidence is received.

C. The board shall be represented by its investigating board member who has conducted the investigation and by its prosecuting attorney who presents evidence to support the charges contained in the administrative complaint.

D. Respondent may present evidence personally or through an attorney, and witnesses may testify on his behalf.

E. Evidence includes the following:

1. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition. The cost of such deposition shall be borne by the requesting party;

2. documentary evidence, such as written or printed materials including public, business or institutional records, books and reports;

3. visual, physical and illustrative evidence;

4. admissions, which are written or oral statements of the respondent a party made either before or during the hearing; and

5. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

F. All testimony shall be received under oath. If the witness objects to swearing, the word "affirm" may be substituted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§392. Order of Hearing [Formerly §337]

A. Unless respondent is notified otherwise no less than 72 hours prior to the beginning of the hearing, the order of proceedings shall be as follows:

1. the board's representative makes an opening statement of what he intends to prove, and what action is sought from the board;

2. the respondent or his attorney makes an opening statement, explaining why he believes that the charges against respondent are not legally founded;

3. the board's representative presents the evidence against the respondent;

4. the respondent or his attorney cross examines;

5. the respondent presents evidence;

6. the board's representative cross examines;

7. the board's representative rebuts the respondent's evidence;

8. the respondent surrebuts the evidence against him;

9. each party makes closing statements. The board's representative makes the initial closing statement and the final statement; and

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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§393. Decision of the Board [Formerly §337]

A. The decision of the board shall be reached in the following manner:

1. determine the facts established by the evidence presented in the hearing;

2. determine whether the facts in the case support the charges brought against the respondent; and

3. determine whether charges brought are a violation of the Practice Act or board rules.

B. The vote of the board shall be recorded. A majority of the quorum of the board in attendance at the hearing shall be necessary to render a decision, unless otherwise agreed upon by the parties. Minority views may be made part of the record.

C. Sanctions against the respondent shall be based upon the findings of fact and conclusions of law determined by the board. The respondent shall be notified by mail of the decision of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§395. Record of the Hearing [Formerly §337]

A. The record of the hearing shall include:

1. all papers filed and served in the proceeding;

2. all documents and other materials accepted as evidence at the hearing;

3. statements of matters officially noticed;

4. notices required by the statutes or rules, including notice of the hearing;

5. affidavits of service or receipts for mailing or process or other evidence of service;

6. stipulations, settlement agreements or consent orders, if any;

7. records of matters agreed upon at a prehearing conference;

8. reports filed by the hearing officer, if one is used;

9. orders of the board and its final decision;

10. actions taken subsequent to the decision, including requests for reconsideration and rehearing; and

11. 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 shall pay for the cost of the transcript.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

Subchapter E. Post-adjudication Remedies

§396. Reconsideration of Decisions [Formerly §337]

A. The board may reconsider a matter which it has decided. This may involve a rehearing of the case, or a reconsideration of the case based on the existing record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a petition requesting that the decision be reconsidered by the board.

B. A petition by a party seeking reconsideration or rehearing must be in proper form and filed within ten days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which shall include one or more of the following:

1. the board's decision is clearly contrary to the law and evidence;

2. 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;

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

4. it would be in the public interest to review and further consider the issues and the evidence.

C. The board's decision to grant or deny a requested reconsideration of its decision is final and not subject to review or appeal.

D. The board shall reconsider a matter when ordered to do so when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§397. Judicial Review of Adjudication [Formerly §345]

A. Any respondent whose license has been revoked, suspended, denied or otherwise sanctioned by the board has the right to have the proceedings of the board reviewed by the state district court having jurisdiction over the board,

provided that such petition for judicial review is filed within 30 days after receipt of 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: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

§399. Appeal [Formerly §347]

A. A respondent 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 Louisiana Administrative Procedure Act, R.S. 49:965, this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:

Subpart 3. Fees

Chapter 5. Fees

§501. Fees

A. The board may collect the following fees:

| | |
|---------------------------------|----------|
| 1. Application | \$200.00 |
| 2. Re-instatement | \$75.00 |
| 3. Renewal of License, per year | \$115.00 |
| 4. License Verification | \$40.00 |
| 5. Duplicate Wall License | \$50.00 |
| 6. Duplicate Wallet License | \$20.00 |

B. The biennial renewal fee provided in this Rule shall be received by the board office prior to May 1 of each period.

C. If the biennial renewal fee is received by the board office on or subsequent to May 1, the applicant shall apply for reinstatement pursuant to §185 and shall pay the renewal fee and the reinstatement fee.

D. The board may assess reasonable charges with regards to administrative business expenses and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 17:667 (July 1991), LR 18:963 (September 1992), LR 21:396 (April 1995), LR 28:1982 (September 2002), amended by the Physical Therapy Board, LR 37:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed rules on the family has been considered. It is anticipated that the proposed rules will have no impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed rules to Cheryl Gaudin, Executive Director, Louisiana Physical

Therapy Board, at 104 Fairlane Drive, Lafayette, LA 70507. Written comments will be accepted until 4:30 p.m., January 10, 2010. A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. Should it become necessary to convene a public hearing to receive data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on January 26, 2010 at 2 p.m. at the New Orleans Marriot, Mardi Gras Ballroom D, located at 555 Canal Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Cheryl Gaudin
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Physical Therapy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is a comprehensive rule change that repeals the former rule and replaces it. As such, the Louisiana Physical Therapy Board (the board) will incur promulgation costs for publishing and mailing the revised Louisiana Physical Therapy Practice Act and the Rules and Regulations booklet. The cost involves reprinting the booklet to incorporate Act 535 of the 2009 legislative session, which is a restatement of the Practice Act, Act 139 of the 2010 legislative session, which addressed regulation of physical therapist assistants; and the comprehensive rule changes that are being promulgated.

The new booklets will be provided to the board's licensees and other interested parties. The net impact of promulgating the new rule is approximately \$18,500 in additional costs in FY 11. This is primarily due to the costs of printing and mailing the new rule booklets to all licensees versus the costs of printing and mailing the current rule packets. It is anticipated that \$14,500 in printing, \$3,500 in mailing costs, and \$2,500 in personal and professional services will be incurred with the publishing of the new booklets as a result of the proposed rules in FY 11 (\$20,500 total). The current rule costs approximately \$2,000 annually to mail and print in-house (\$20,500 - \$2000 = \$18,500 net impact). In subsequent years, a copy of the revised Louisiana Physical Therapy Practice Act and Rules and Regulations will only be forwarded to each new licensee and to the public upon request.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board anticipates some additional revenue from late fees collected (\$170 per licensee) when licensees fail to renew biennially before the newly imposed grace period. Based on previous records of licensees failing to timely renew licenses, the board conservatively anticipates approximately \$1,190 in additional revenue this fiscal year after the rule takes effect (based on 7 licensees paying late fee).

Louisiana State Police's (LSP) revenues will increase as the board pays to utilize fingerprinting and state and federal background check services as per Act 535 of the 2009

legislative session. If the applicant undergoes fingerprinting with LSP, the cost for the service is \$10; state and federal background checks through LSP are \$45.25 (\$26 for state and \$19.25 for federal). LSP keeps \$2 of the \$19.25 paid for the FBI federal background check for the costs of processing. If the board applies the background check requirement uniformly, it estimates approximately 500 new applicants and licensees with disciplinary issues will undergo these services each year, bringing a minimum of \$14,000 in additional revenue to LSP annually (excludes fingerprinting services and FBI fees). LSP will process the workload increase, stemming from the additional background checks and fingerprinting, with existing staff and resources. License applicants will directly reimburse the Board for any costs incurred for these services, and the Board will not gain any revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

As per Act 535 of the 2009 Legislative Session

Costs:

Fees will be charged to applicants for licensure in Louisiana in order to reimburse the Board for the costs of fingerprinting (price varies by service provider; \$10 through LSP) and state and federal background checks (\$45.25 through LSP). These fees will be based on actual costs incurred.

Some Licensees and employers may incur a small increase in costs for documenting supervision conferences in patient records since some offices have software that will need to be reprogrammed to allow for two authorized signatures.

In addition, licensees will realize a slight cost increase due to the continuing education requirements changing from 12 hours annually to 30 hours biennially. This requires them to incur the cost of 6 additional hours biennially in order to better align with national standards.

Licensees who fail to renew biennially by the appointed deadline will pay an additional \$170 in late fees to the board as a penalty and for the costs of expedited production and delivery of wallet cards to prove current licensed status.

Savings:

Foreign education students are expected to save money since they will be permitted to apply to several different credentialing agencies other than just the Foreign Credentialing Commission on Physical Therapy, and those already licensed in other jurisdictions in the United States will be allowed to base their certification on the Course Work Evaluation Tool (CWT) in use at the time of their initial accreditation in the United States rather than the current CWT.

Furthermore, the rules will reduce the potential for noncompliance with the Practice Act by eliminating the temporary license and creating a grace period for license renewal, thereby, decreasing any potential expenses incurred by licensees due to disciplinary actions or loss of income as a result of such disciplinary actions.

As per Act 139 of the 2010 Legislative Session

The rule changes will eliminate the requirement for a physical therapist to be on-site supervising physical therapist assistants for half of the workweek, and will change the supervisory ratio for physical therapists (PTs) to physical therapist assistants (PTAs) from 1:3 to 1:4. The reduction in the on-site supervision requirement and the change in the supervisory ratio will result in cost savings to employers since fewer physical therapists will be needed to supervise and they are paid higher salaries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Some physical therapists may be unemployed or shifted as a result of the change in the supervisory ratio since fewer are

needed. Also, the new fingerprinting and background check requirements may disqualify some licensee applicants that would have previously been accepted. The proposed rules also limit the number of attempts applicants may sit for the national physical therapy examination prior to remediation, which may cause some applicants to be unable to qualify for licensure without undergoing the PT or PTA education program requirements again.

Cheryl Gaudin
Executive Director
1012#087

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Tuberculosis Control Program—Inmate Health (LAC 51:XVIII.301)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, intends to amend Part XVIII (Jails, Prisons and Other Institutions of Detention and Incarceration) of the Louisiana State Sanitary Code (LAC 51). This Rule adds the approved blood assay for Mycobacterium tuberculosis to the purified protein derivative skin test as an acceptable alternative screening test for tuberculosis among incarcerated persons in Louisiana jails or prisons.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XVIII. Jails, Prisons and Other Institutions of Detention and Incarceration

Chapter 3. Health Requirements for Incarceration §301. Inmate Health

A. ...

B. [Formerly paragraph 18:022] Any person entering any Louisiana parish jail as an inmate for 14 days or more shall be screened for tuberculosis, where funding is available, with a purified protein derivative skin test, five tuberculin unit strength, given by the Mantoux method, or by the blood assay for Mycobacterium tuberculosis, and a chest x-ray if the skin test or the blood assay for Mycobacterium tuberculosis is positive. If the individual is known to be infected with the human immunodeficiency virus (HIV) or has acquired immunodeficiency syndrome (AIDS), he or she shall be required to have a chest x-ray in addition to a skin test for tuberculosis or in addition to a blood assay for Mycobacterium tuberculosis, regardless of the results. If an individual has a positive skin test or a positive result of a blood assay for Mycobacterium tuberculosis or a positive x-ray, he or she shall be evaluated by a physician to determine whether he or she should receive a course of chemotherapy for tuberculosis. If evaluation is desired before 14 days, a chest x-ray is acceptable for screening.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:301 (March 1994), repromulgated LR 29:1099 (July 2003), amended LR 37:

Family Impact Statement

1. The effect on the stability of the family. This proposed Rule will enhance the stability of the family in helping to provide for early detection of tuberculosis, if the disease is found in a family member incarcerated or detained in a Louisiana jail or prison. Testing of the persons incarcerated or detained is done only if funds are available for this purpose, however.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. This proposed Rule will enhance the effect of the authority and rights of parents regarding the education and supervision of their children in helping to provide for early detection of tuberculosis, if the disease is found in a family member incarcerated or detained in a Louisiana jail or prison. Testing of the persons incarcerated or detained is done only if funds are available for this purpose, however.

3. The effect on the functioning of the family. This proposed Rule will enhance the functioning of the family in helping to provide for early detection of tuberculosis, if the disease is found in a family member incarcerated or detained in a Louisiana jail or prison. Testing of the persons incarcerated or detained is done only if funds are available for this purpose, however.

4. The effect on the family earnings and family budget. This proposed Rule may save some families the cost of getting an unnecessary test for tuberculosis, because it eliminates the requirement of tuberculosis testing for employees or volunteers or patients at certain state licensed residential facilities.

5. The effect on the behavior and personal responsibility of children. This proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or local government to perform the function as contained in the proposed rule. This proposed Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule. Testing for tuberculosis on detained or incarcerated persons in any Louisiana jail or prison is dependent on the availability of funds for this purpose.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Wednesday, January 5, 2010 at 4:30 p.m., and should be sent to Dr. Louis Trachtman, Medical Director, TB Control Section, DHH-OPH, P.O. Box 60630, New Orleans, LA 70160-0630 or to fax (504) 599-0734. Copies of this proposed Rule can be obtained from the above referenced address.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuberculosis Control
Program—Inmate Health**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Part XVIII Section 301 (Health Requirements for Incarceration) of the State Sanitary Code (LAC 51). This rule change in Section 301 adds the approved blood assay for Mycobacterium tuberculosis to the purified protein derivative skin test as an acceptable alternative screening test for tuberculosis among incarcerated persons in Louisiana jails or prisons.

This rule is compatible with the acceptance of the blood assay for Mycobacterium tuberculosis as an acceptable screening test for tuberculosis among incarcerated persons at hospitals and nursing homes in Louisiana, which was adopted as a Rule in Part II of the Sanitary Code in January 2007.

The cost of the alternative blood assay test is approximately the same cost for the traditionally used tuberculin skin test. No new cost is expected to the Department of Corrections as a result of this proposed rule. Therefore, the only cost associated with this rule change is the \$328.00 to publish the notice of intent and the final rule in the *Louisiana Register*. This is a one-time cost that is included in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no effect on revenue collections or state or local governmental units because DHH/Office of Public Health's laboratories do not offer testing to incarcerated persons of either state licensed hospitals or state licensed nursing homes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule change will not result in any additional costs and/or economic benefits to directly affected persons or non-governmental groups. Tuberculosis testing has been required for the same groups of persons by DHH/OPH and the cost to those affected is approximately the same for the blood assay as for the traditionally used tuberculin skin test. This rule just provides an acceptable alternative to institutions required to perform tuberculosis testing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment anticipated as a result of promulgation of this regulation.

Clayton W. Williams
Assistant Secretary
1012#005

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Tuberculosis Control Program—Mandatory Testing
(LAC 51:II.503)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the

Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, intends to amend Part II (Health Examinations of Employees, Volunteers and Patients at Certain Medical and Residential Facilities) of the Louisiana State Sanitary Code (LAC 51).

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 5. Health Examinations for Employees, Volunteers and Patients at Certain Medical Facilities

§503. Mandatory Tuberculosis Testing

A. [Formerly paragraph 2:022] All persons prior to or at the time of employment at any hospital or nursing home (as defined in Chapters XIX and XX, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility or any person prior to or at the time of commencing volunteer work involving direct patient care at any hospital or nursing home (as defined in Chapters XIX and XX, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility shall be free of tuberculosis in a communicable state as evidenced by either:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:98 (January 2006), LR 33:93 (January 2007), LR 37:

Family Impact Statement

1. The effect on the stability of the family. This proposed Rule will no effect upon the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. This proposed Rule will have no effect upon the authority of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. This proposed will have no effect on the functioning of the family.

4. The effect on the family earnings and family budget. This proposed Rule may save some families the cost of getting an unnecessary test for tuberculosis, because it eliminates the requirement of tuberculosis testing for employees or volunteers or patients at certain state licensed residential facilities.

5. The effect on the behavior and personal responsibility of children. This proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or local government to perform the function as contained in the proposed Rule. This proposed Rule will have no effect on the ability of the family

or local government to perform the function as contained in the proposed Rule.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Wednesday, January 5, 2010 at 4:30 p.m., and should be sent to Dr. Louis Trachtman, Medical Director, TB Control Section, DHH-OPH, P.O. Box 60630, New Orleans, LA 70160-0630 or to fax (504) 599-0734. Copies of this proposed Rule can be obtained from the above referenced address.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuberculosis Control Program—Mandatory Testing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Part II Section 503 A (Mandatory Tuberculosis Testing) of the State Sanitary Code (LAC 51) to provide clarity for mandatory tuberculosis testing by replacing the language “medical or 24-hour residential facility” with “hospital or nursing home (as defined in Chapters XIX and XX, respectively, herein, and including intermediate care facilities for the developmentally disabled).” The risk of TB infection in residential facilities is extremely low. Therefore, the requirement for mandatory tuberculosis testing in residential facilities is being removed. Whenever new active tuberculosis cases are found, the new cases are prevalent in nursing homes or hospitals and not residential facilities.

The only cost associated with this rule change is the \$328.00 to publish the notice of intent and the final rule in the *Louisiana Register*. This is a one-time cost that is included in the agency’s budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no effect on revenue collections of state or local governmental units because testing is not offered by DHH/Office of Public Health laboratories to employees, volunteers or patients of either state licensed hospitals or state licensed nursing homes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule will result in an economic benefit to potential employees and/or volunteers that are potential employees and/or volunteers of medical or 24-hour residential facilities licensed by the state of Louisiana, as they will no longer be required to be tested for tuberculosis.

The cost of an approved tuberculosis test may vary from approximately \$35.00 to \$250.00 per person per test. This cost varies depending upon the volume of tests done at any one commercial laboratory.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment as a result of promulgation of this regulation.

Clayton W. Williams
Assistant Secretary
1012#006

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Labor State Plumbing Board

Continuing Professional Education Programs (LAC 46:LV.1003 and 1005)

Editor's Note: This Notice of Intent is being printed in its entirety to correct an error upon submission. The original Notice of Intent may be viewed in the November 20, 2010 edition of the *Louisiana Register* on pages 2725-2726.

The Louisiana State Plumbing Board (board), pursuant to R.S. 37:1366(I), which authorizes the board to establish and determine by rule minimum requirements relative to continuing professional development for the renewal or reinstatement of any license or special endorsement issued by the board, proposes to amend plumbing regulations, LAC 46:LV.1003 and 1005, in accordance with the Administrative Procedure Act. The proposed Rule change allows the board to accept an endorsee's attendance or participation in a board approved industry-related recertification programs in lieu of a Board-approved CPE class, effective upon final publication in the *Louisiana Register*.

All currently stated rules of the board, unless amended herein, shall remain in full force and effect.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LV. Plumbers

Chapter 10. Continuing Professional Education Programs

§1003. Water Supply Protection Specialists

A. CPE Requirement

1. Effective January 1, 2011, in addition to the yearly renewal of their endorsement, every three years all persons holding a water supply protection specialist endorsement issued by the Louisiana State Plumbing Board are required to show proof of attendance at no less than six hours of a Louisiana State Plumbing Board-approved CPE training class in the prior three calendar years, as set out in this Section. In lieu of attendance at any such class, the Board may accept proof of the endorsee's attendance or participation in board-approved industry-related recertification programs during the prior three calendar years.

B. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2074 (September 2004), amended LR 37:

§1005. Medical Gas Piping Installers and Medical Gas Verifiers

A. CPE Requirement

1. Effective January 1, 2012, in addition to the yearly renewal of their endorsement, every three years all persons seeing to renew a medical gas piping installer or medical gas verifier license issued by the Louisiana State Plumbing Board are required to show proof of attendance at no less than four hours of a Louisiana State Plumbing Board-approved CPE class in the prior three calendar years, as set out in this Section. In lieu of attendance at any such class,

the board may accept proof of the endorsee's attendance or participation in board approved industry-related recertification programs during the prior three calendar years.

B. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2074 (September 2004), amended LR 37:

Family Impact Statement

1. Estimated effect on the stability of the family: There is no estimated effect on the stability of the family.

2. Estimated effect on the authority and rights of parents regarding the education and supervision of their children: There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated effect on the functioning of the family: There is no estimated effect on the functioning of the family.

4. Estimated effect on family earnings and family budget: There is no estimated effect on family earnings and family budget.

5. Estimated effect on the behavior and personal responsibility of children: There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule: There is no estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Public Comments

Any interested person may submit written comments regarding the content of this proposed Rule change to John Barker, Executive Director, 12497 Airline Highway, Baton Rouge, LA, no later than 5 p.m., January 20, 2011.

Louis L. Robein
Board Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Continuing Professional Education Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs resulting from the proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have 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)

Currently, the Board requires an annual renewal of endorsement by the Board and proof of attendance in at least six hours (water supply protection specialists) or at least four hours (medical gas piping installers and medical gas verifiers) of Certified Plumbing Education courses over the prior three years. The proposed rule maintains the annual renewal of endorsement requirement but allows the attendance or participation at any approved industry-related recertification programs during any three-year period in lieu of the current

attendance requirements. There will be no additional costs to any Board licensed individuals. The State Plumbing Board believes that the rule change will be more convenient for those licensed under the State Plumbing Board to maintain their licensed status. It will eliminate duplication of effort and expenses to those licensees who must maintain industry certifications in a specialized field. The proposed rule change does not increase the continuing professional education requirements. It simply allows the individual additional options for maintaining their licensed status.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no effect on competition, but will continue to increase knowledge and skills of licensees due to regular training and updates on industry practices, health, conservation and environmental protection.

Louis L. Robein
Board Attorney
1011#073

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Water Wells (LAC 56:I.Chapters 1-7)

The Louisiana Office of Conservation proposes to amend LAC 56:I.Chapters 1, 3, 5 and 7 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed amendment will address numerous typographical changes necessary as a result of Act 437 of 2009 which transferred the duties and responsibilities relative to ground water resources, water wells and drillers from the Department of Transportation and Development, Office of Public Works to the Department of Natural Resources, Office of Conservation.

Additionally this proposal amends the provision of LAC 56:I, Sections 117 and 119 to re-define the phrase, "as accurately as possible," to include providing specific latitudinal and longitudinal coordinates in addition to a general hand drawn location on the water well registration forms.

Title 56

PUBLIC WORKS

Part I. Water Wells

Chapter 1. Registering Water Wells

§101. Authorization

A. ...

B. Effective January 1, 2010, in accordance with Act 437 of 2009, The Department of Natural Resources, Office of Conservation, hereafter referred to as *department*, is responsible for registering water wells and holes in Louisiana.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-38:3098.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:950 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

**§105. Registration of Water Wells and Holes
Completed on or after November 1, 1985**

A. The contractor who drills or constructs a well or hole on or after November 1, 1985 shall be responsible for registering that well or hole by submitting to the department a completed Water Well Registration Form within 30 calendar days after completing such well or hole. Registration requirements shall apply to all water wells, regardless of yield or use, including but not limited to, public supply, domestic, irrigation/agriculture, power generation, rig-supply, observation, dewatering, monitoring, and heat pump supply wells, as well as test holes, abandoned pilot holes, and heat pump holes. For glossary of terms, refer to §113 of this Chapter.

B. - B.3. ...

C. Water Well Registration Long Form (DNR-GW-1). The Water Well Registration Long Form (DNR-GW-1) shall be used to register the following types of wells and holes:

1. - 8. ...

For long form instructions see §117.

D. Water Well Registration Short Form (DNR-GW-1S). The Water Well Registration Short Form (DNR-GW-1S) shall be used to register the following types of wells and holes:

1. - 6. ...

For short form instructions see §119.

E. Submission of Water Well Registration Forms

1. ...

2. For registration purposes only, the department considers a well or hole completed when it is accepted by the owner or when the contractor has moved his equipment from the site, whichever comes first. Acceptance by the owner or removal of equipment from the site by the contractor does not imply, in any way, acceptance or approval by the state of Louisiana. The department, after reviewing applicable records and/or inspection of the well site, can cause the owner and/or the contractor to do whatever additional work is necessary to bring the well or hole up to standards. The expense for the additional work shall be borne by the owner/or the contractor, as the case may be.

3. For the purpose of registering heat pump holes only, one form (DNR-GW-1S) Short Form per project (site) will suffice. Under item marked "remarks", materials and method used to seal the holes shall be indicated. Driller's log description of cuttings should be the typical formations encountered at the site.

4. Registration forms may be submitted to the department on a monthly basis as long as the 30-day limitation is not exceeded. Forms that are illegible, have incomplete items, lack a sketch or directions to the well, do not include latitudinal and longitudinal coordinates or have not been signed and dated will be rejected by the department and will be returned to the contractor for correction and resubmittal. It is the responsibility of the contractor to see to it that the submitted registration forms are actually received by the department.

E.5. - G1. ...

2. If an unregistered well is reworked, deepened or changed in any manner or if screen setting is altered, the proper registration form (DNR-GW-1 or DNR-GW-1S) shall be submitted to the department by the contractor no later than 30 calendar days after the work has been completed.

H. ...

1. the subcontractor who drills the well shall keep an accurate record of the pertinent data to be used in completing the registration form; however, the name and license number of the original contractor must be shown on the upper right-hand corner of the registration form, and it is the original contractor who is responsible for signing and transmitting the form to the department in accordance with the procedures outlined in §105.E. The subcontractor may write his or his company's name and license number at the space designated for "remarks."

I. Registration of Rig-Supply Water Wells

1. In order to register a rig-supply water well, each registration form must be accompanied by a copy of the "registered" permit plat reflecting the section, township, range and the distances from the section lines to the location of the well (oil, gas, injection, etc.). The plat will be used by the department to verify the latitude and longitude of the well. The water well contractor who drilled the water well shall obtain a copy of the plat from the company in charge of the drilling of the oil or gas well (lessee) or from the operator of the oil or gas drilling rig and shall attach it to the registration form for transmittal to the department. Alternatively, the water well contractor may send the registration form to the lessee with appropriate instructions for them to attach the plat to the registration form and transmit it to the department.

2. ...

J. Registration of Monitoring Wells. Although construction of monitoring wells for facilities regulated by the Department of Environmental Quality (DEQ) requires approval from DEQ prior to construction, they shall be registered with the Office of Conservation, like all other water wells, as part of the state's effort to catalog well sites and to collect and provide data on the geohydrological system. In order to register a monitoring well, the drilling contractor, in addition to completing all items on the Water Well Registration Short Form (DNR-GW-1S), must also complete the spaces provided for the latitude and longitude of the well location, as well as the section, township and range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-38:3098.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:950 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§107. Registration of Water Wells Completed Prior to November 1, 1985

A. - C. ...

1. All wells used to supply a public water system regardless of yield, and all other water wells capable of producing more than 50,000 gallons per day, which were constructed on or after July 1, 1975, shall be registered by the owner by completing a water well registration long form (DNR-GW-1) for each well and sending them to the department for verification and registration within 90 calendar days after the effective date of these regulations.

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-38:3098.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:951 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§113. Definitions

A. ...

Assistant Secretary—the assistant secretary of the Office of Conservation, Department of Natural Resources, or his designee.

Department—the Louisiana Department of Natural Resources, Office of Conservation.

Electrical Log—a record of the resistivity of the subsurface formations and the contained fluid and spontaneous potentials generated in the borehole, both plotted in terms of depth below some datum, such as land surface. Similar logs commonly made in boreholes are the induction logs. Other borehole geophysical logs that also may be available are the gamma ray, caliper and neutron logs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3098 -38:3098.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:969 (May 1975), amended LR 11:969 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§117. Water Well Registration (Long Form)

A. The Water Well Registration Long Form (DNR-GW-1) and detailed instructions for properly completing the form are available by contacting department staff at (225) 342-8244 or by accessing the department's website at www.dnr.louisiana.gov/gwater. The Long Form consists of a set of three copies. The first copy (marked DNR copy) is to be mailed by the water well contractor within 30 calendar days after the well has been completed to:

Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, La 70804-9275

B. The second copy of the form is to be retained by the water-well contractor for his files, and the third copy is to be given to the well owner immediately upon completion of the work. The commissioner will consider and encourages the electronic submission of registration, data or reports required under this Section.

C. Although most of the information needed to complete the form is available to the water well contractor, the following explanation will provide clarification of intent for selected items and uniformity of reporting.

D. Owner Information. List the name of the legal owner of the property on which the well is located or the person or company holding a long-term lease on the property. If the

owner or lessee is an individual, list first and last names and middle initial of individual. List area code and telephone number of owner in the spaces provided.

1. Address. The address should be that of the owner. If the well is owned by an industry, the local address of the firm is preferred in order that additional data on the well may be easily obtained by the state or a regional water district or commission.

2. Owner's Well Number. Many cities, institutions, industrial plants, and large farms have their own system of designating or identifying wells by number and/or name. This information is useful when locating the well and should be entered on the form.

E. Well Location. List the parish where the well is located, including the nearest town, city, etc., and give directions to the well site. The location of the well should be described in detail and as accurately as possible so that the well can be easily located by the department's staff or field inspector. Please include a detailed map or sketch on the back of the original form, showing location of well with reference to roads, railroads, buildings, etc. Use an (X) to indicate location of the well. Show location of nearest existing well(s), if any nearby, by marking (0s), and approximate distance between wells. Determine the well's Global Positioning System (GPS) location and record the GPS longitude and latitude coordinates onto the form.

F. Well Information. Required data are available from water well contractor's and/or engineer's report.

G. Casing and Screen Information. Required data are available from water well contractor's and/or engineer's report. By type of screen indicate whether it is "bar lug" rib type, slotted pipe, etc. State whether casing is plastic or metal. Indicate the depth to which the annular space was cemented and state method of cementing.

H. Water Level and Yield Information. Most of the information entered on the form can usually be obtained from the water well contractor's or engineer's report. Except for "static water level," the terms need no explanation. Static water level is "the nonpumping water level in a well that has not been in operation for a period of time and is usually expressed in feet above or below a specified datum, such as land surface." The owner should be able to provide information on proposed use and pumping rate.

I. Use of Well. The principal purpose for which water from the well is used should be indicated where appropriate on the form. If water is used for more than one purpose, only the principal or primary use should be shown. If the planned use of water is unknown or does not fit one of the specified uses, this should be noted in the space marked "other." Following are explanations of the terms used on the well registration form to indicate the principal use of water from a well.

1. ...

2. Industrial. Includes plants that manufacture, process or fabricate a product. The water may or may not be incorporated into the product being manufactured. Industrial water may be used to cool machinery, to provide sanitary facilities for employees, to air-condition the plant, and water grounds at the plant. Water used for mining or to process ore such as gravel pits is included in the industrial category. Planning and water-use needs can be implemented by dividing this category into the following standard industrial

categories that predominate in Louisiana. Indicate the principal category of industrial use on the form where appropriate. The categories are defined as follows:

2.a. - 3.b. ...

c. Because public supply use includes many categories of use, requirements for planning and water-use surveys require a further break-down of this use; thus, public supply use is divided into the following categories: (A list is provided on the registration form (refer to §117) so that the user may select the appropriate category of public supply use.)

3.d. - 7. ...

8. Other. A well that is used for the purpose that does not fit into either the above categories or those listed on the short form (DNR-GW-1S).

J. Available Information. Please indicate where appropriate on the form whether the specified logs or data were collected; if so, attach copies to the registration form for transmittal to the department.

K. Abandonment Information. If the well is new, specify whether or not it replaces an existing well. The water well contractor is responsible for informing the owner of the well of state regulations requiring plugging of abandoned wells. This item is intended to serve as a reminder.

L. Remarks. This space can be used for presenting any other pertinent information, such as name of consulting engineer, screen openings, pump information, name of subcontractor, etc.

M. Driller's Log. Give a description of the materials encountered and depth. If space on front of the form is insufficient, continue driller's log on reverse side of original form or attach a copy of the driller's log to the original form to be transmitted to the department.

1. After completing the form, list the name of the water well contracting company and the license number on the space provided. Sign and date the form and mail the original to the department at the address listed on the form within 30 calendar days after the well has been completed. The owner's copy shall be given to the owner immediately upon completion of the work. The contractor's copy shall be retained by the contractor for his files.

2. If there are any questions, please call or write:

Louisiana Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275
Phone: (225) 342-8244

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3098-38:3098.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:249 (May 1975), amended LR 11:971 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§119. Water Well Registration (Short Form)

A. The Water Well Registration Short Form (DNR-GW-1S) and detailed instructions for properly completing the form are available by contacting department staff at 225-342-8244 or by accessing the department's website at www.dnr.louisiana.gov/gwater. The short form consists of a set of three copies. The first copy (marked DNR copy) is to be mailed by the water well contractor within 30 calendar

days after the well has been completed to: Louisiana Department of Natural Resources, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275.

B. The second copy of the form shall be retained by the water well contractor for his files and the third copy shall be given to the well owner immediately upon completion of the work. The commissioner will consider and encourages the electronic submission of registration, data or reports required under this section.

C. Although most of the information needed to complete the form is available to the water well contractor, the following explanation will provide clarification of intent for selected items and uniformity of reporting:

1. Use of Well. The principal purpose for which the well is used should be indicated by checking the appropriate box on the form. If the well is used for more than one purpose, only the principal or primary use should be shown.

a. - f. ...

g. Other. A well used for a purpose that does not fit into either the above categories or those requiring a Long Form (DNR-GW-1).

2. Owner Information. List the name of the legal owner of the property on which the well is located or the person or company holding a long-term lease on the property. If the owner or lessee is an individual, list first and last names and middle initial of individual. List area code and telephone number of owner in the spaces provided.

3. Owner's Address. List full and correct address of the owner.

4. Owner's Well Number. List name or number the well owner has assigned to the well.

5. Well Information. List in appropriate spaces, completion date of well, depth of hole, depth of well, static water level, casing type, size and length, screen size, type and length, the depth to which the casing was cemented, and cementing method used.

6. Well Location. List the parish where the well is located, including the nearest town, city, etc., and give directions to the well site. The location of the well should be described in detail and as accurately as possible so that the well can be easily located by the department's staff or field inspector. Please include a detailed map or sketch on the back of the original form showing the location of the well with reference to roads, railroads, buildings, etc. Use an (X) to indicate location of the well. Show location of nearest existing well(s), if any nearby, by making (Os) and approximate distance between wells. Determine the well's Global Positioning System (GPS) location and record the GPS longitude and latitude coordinates onto the form. For rig-supply wells, attach a "registered" permit plat (see §105.I) and for monitoring wells, complete spaces provided for the section, township and range (see §105.J).

7. Remarks. This space can be used for presenting any other information, such as screen openings, pump information, problems encountered during drilling, name and license number of water-well subcontractors, method and materials used to seal heat pump hole, etc.

8. Driller's Log. List in the space provided a description of the materials encountered and depth. If space on front of the form is insufficient, continue driller's log on

reverse side of original form or attach a copy of the driller's log to the original form to be transmitted to the department.

9. Heat Pump Holes. List average depth of holes and number of holes drilled at the site. Indicate type of tubing material used by checking appropriate box. Method and materials used to seal holes shall be stated under item marked "remarks."

10. Abandonment Information. If the well is new, specify whether or not it replaces an existing well. The water well contractor is responsible for informing the owner of the well of state regulations requiring plugging of abandoned wells.

D. After completing the form, list the name of the water well contracting company and the license number on the spaces provided. Sign and date the form and mail the original to the department at the address listed on the form within 30 calendar days after the well has been completed. The owner's copy shall be given to the owner immediately upon completion of the work. The contractor's copy shall be retained by the contractor for his files.

E. If there are any questions or you need assistance, please call or write to:

Louisiana Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275
Phone: (225) 342-8244

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3098-38:3098.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:974 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

Chapter 3. Water Well Construction **§301. Preamble**

A. As announced in the October 1985 issue of the *Louisiana Register*, the rules, regulations and standards for constructing water wells and holes were prepared by the Louisiana Department of Transportation and Development (DOTD), Office of Public Works, in accordance with R.S. 38:3091 through 38:3098.8. Effective January 1, 2010, in accordance with Act 437 of 2009, The Department of Natural Resources, Office of Conservation, hereafter referred to as *department*, is responsible for registering water wells and holes in Louisiana. The rules, regulations and standards stated herein became effective on November 1, 1985 and supersede the rules, regulations and standards for water well construction which had been in effect since December 20, 1975.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3091-R.S. 38:309.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:952 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§305. Approval of Plans and Specifications for Public Water Supply Systems

A. - B. ..

* * *

C. In accordance with these legislative directives, the rules, regulations and standards governing construction of public supply water wells were prepared by the DOTD in close cooperation with the Louisiana Department of Health and Human Resources, Office of Preventive and Public Health Services, and they are intended to eliminate duplication of efforts and requirements by the two agencies, thereby minimizing cost and optimizing operating efficiencies.

D. Chapter XII of the State Sanitary Code requires that no public water supply shall be constructed, operated or modified without review and approval of the state health officer. Detailed plans and specifications shall be submitted to the appropriate Department of Health and Hospitals regional office by the person having responsible charge for a municipally owned water supply or by the owner of a privately owned public water supply for review and approval before construction, modification, or operation of such system has commenced.

E. The water well contractor shall construct the well in accordance with the applicable provisions of this Chapter and shall submit a Water Well Registration Long Form (DNR-GW-1) to the department within 30 calendar days after completing the well, as required by Subsection B of the rules, regulations and procedures for registering water wells and holes.

F. All questions relating to the quality of water, as it pertains to its effect on human health, shall be referred by the owner, engineer or water well contractor to the following:

Department of Health and Hospitals
Office of Public Health
P. O. Box 4489
Baton Rouge, LA 70821-4489
Phone: (225) 342-7499

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3091-R.S. 38:309.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:952 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§311. Variance Requests

A. Requests to vary from the rules, regulations and standards for constructing water wells and holes shall be addressed to the department as follows:

Louisiana Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275
Phone: (225) 342-8244

B. ...

C. Requests to vary from the provisions of the State Sanitary Code relating to the sanitary features of the public supply water systems, and for questions related to the quality of water as it pertains to human health, shall be addressed to the following:

Department of Health and Hospitals
Office of Public Health
P. O. Box 4489
Baton Rouge, LA 70821-4489
Phone: (225) 342-7499

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3091-R.S. 38:309.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:953 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§319. Location in Relation to Flood Water

A. - C. ...

D. Flood information may be obtained from the U.S. Geological Survey or the administering agency of the Federal Insurance Program (i.e., municipality, police jury, regional planning authorities or the Department of Urban and Community Affairs).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3091-R.S. 38:309.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:953 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§323. Drilling and Construction

A. - B. ...

C. When drilling a hole the contractor shall:

1. record the hole diameter and any changes in size of hole;

C.2. - L.5 ...

6. Abandoned monitoring wells shall be plugged in accordance with requirements of §531.

Note: Construction of Monitoring Wells for facilities regulated by the department of Environmental Quality (DEQ) require approval from DEQ prior to construction.

M. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3091-R.S. 38:309.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:954 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§327. Screen

A. - K.1. ...

2. If required, a properly graded gravel pack shall be selected based upon an evaluation of the sieve analysis for the sands in the formation. The uniformity coefficient (see §113 of this Chapter for glossary of terms) of the selected gravel pack material should be 2.5 or less. The gravel envelope, usually 3 to 8 inches thick, should consist of clean, well-rounded siliceous material that will permit the selection of screen openings that will retain 90 percent or more of the gravel pack material by size. Limestone and shale shall not be used as a gravel pack.

L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3091-R.S. 38:309.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:956 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§331. Well Development and Disinfection

A. - F.3. ...

4. Disinfection of Wells. All new wells and existing wells in which repair work has been done shall be disinfected before being put into use, in accordance with Chapter XII of the State Sanitary Code, if water is to be used for drinking, cooking or washing purposes. Negative bacteriological analysis of water, performed by the Department of Health and Hospitals (DHH) or by a laboratory certified by DHH, shall be required for all public supply and domestic water wells.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3091-R.S. 38:309.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:958 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§333. Standards for Miscellaneous Appurtenances

A. - B. ...

C. Concrete Slab

1. When concrete slabs are placed around water wells at ground surface, they should be at least 4 inches thick and extending at least 2 1/2 feet from the well in all directions. The surface of the slab shall be sloped to drain away from the well. The top of the casing shall be at least 1 foot above the top of the slab. Prior to the slab installation, the contractor shall seal the annular space in accordance with §329. The placement of a slab shall not be considered a substitute for the placement of cement-bentonite slurry in the annular space between the hole and the casing.

C.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3091-R.S. 38:309.8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:959 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

Chapter 5. Plugging and Sealing of Abandoned Water Wells and Holes

§501. Organization

A. As announced in the October 1985 issue of the *Louisiana Register*, the rules, regulations and standards, stated herein, were prepared by the Louisiana Department of Transportation and Development, Office of Public Works, in accordance with R.S. 38:2091-38:3097. Effective January 1, 2010, in accordance with Act 437 of 2009, The Department of Natural Resources, Office of Conservation, hereafter referred to as *department*, is responsible for registering water wells and holes in Louisiana.

B. The rules, regulations and standards, stated herein, became effective on November 1, 1985 and supersede the rules, regulations, standards and methods for plugging and sealing of abandoned water wells and holes which had been in effect since September 1, 1975.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-R.S. 38:3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:959 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§505. General Rules and Regulations

A. In 1972, the Louisiana Legislature enacted State Act 535, which authorized the authorizing agency to promulgate reasonable rules and regulations relating to the plugging of abandoned water wells. Section A-6 of this Act (R.S. 38:3094) states that the authorizing agency shall:

* * *

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-R.S. 38:3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:960 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§511. Licensing Requirements

A. - B.1. ...

2. In addition to the domestic wells referred to in §511.B.1, a person may plug an abandoned well or hole on his own or leased property provided that the person has the required equipment and knowledge for properly plugging the well or hole, in accordance with the rules, regulations, and standards stated herein, to the satisfaction of the department, and provided that the person has obtained departmental approval for plugging the well or hole himself, and provided that such approval is obtained prior to the beginning of the plugging operation. The owner shall complete and submit a Water Well Plugging and Abandonment Form (DNR-GW-2) to the department within 30 calendar days after completion of the plugging operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-R.S. 38:3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:960 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§513. Variance Requests

A. ...

Louisiana Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275
Phone: (225) 342-5562

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-R.S. 38:3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:960 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§515. Submission of Water Well Plugging and Abandonment Forms (DNR-GW-2)

A. The contractor who plugs an abandoned well or hole shall complete and submit to the department the original copy of the Water Well Plugging and Abandonment Form (DNR-GW-2) within 30 calendar days after the completion of the work. The owner's copy shall be sent to the owner immediately after completion of the work, and the contractor shall retain the contractor's copy for his files. For reporting purposes only, the department considers the work completed when the work is accepted by the owner or when the contractor has moved his equipment from the site; whichever comes first. Acceptance by the owner or removal of equipment from the site by the contractor does not imply, in any way, acceptance or approval by the state of Louisiana. The department, after inspection of the site and records (refer to §523), can require the owner and/or the contractor to do whatever additional work is necessary to properly plug and seal a hole or well in accordance with the standards stated herein. The expense for the additional work shall be borne by the owner and/or the contractor, as the case may be.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-R.S. 38:3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:960 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§516. Water Well Plugging and Abandonment Form (DNR-GW-2)

A. The Water Well Plugging and Abandonment form (DNR-GW-2) and detailed instructions for properly completing the form are available by contacting department staff at 225-342-8244 or by accessing the department's website at www.dnr.louisiana.gov/gwater. Form DNR-GW-2 consists of a set of three copies.

1. The first copy (marked DNR copy) is to be mailed by whoever plugs the well or hole within 30 calendar days after plugging operations have been completed to:

Louisiana Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275

B. - B.2. ...

C. The commissioner will consider and encourages the electronic submission of registration, data or reports required under this Section.

D. The following explanation will provide clarification of intent for selected items and uniformity of reporting.

1. Owner Information. List the name of the legal owner of the property on which the well is located or the person or company holding a long-term lease on the

property. If the owner or lessee is an individual, list first and last names and middle initial of individual.

a. Address. The address should be that of the owner. If the well is owned by an industry, the local address of the firm is preferred in order that additional data on the well may be easily obtained by the state or a regional water district or commission.

b. Owner's Well Number. Many cities, institutions, industrial plants, and large farms have their own systems of designating or identifying wells by numbers and/or name. This information is useful when locating the well and should be entered on the form.

2. Well Location. List the parish where the well is located, including the nearest town, city, etc., and give directions to the well site. The location of the well should be described in detail and as accurately as possible so that the well can be easily located by the department's field inspector. Please include a detailed map or sketch on the back of the original form showing the location of the well with reference to roads, railroads, building, etc. Use an (X) to indicate location of the well. Show location of nearest existing well(s), if any nearby, by making (O's) and approximate distance between wells. Determine the well's Global Positioning System (GPS) location and record the GPS longitude and latitude coordinates onto the form. For rig-supply wells, attach a "registered" permit plat (see §105.I) and for monitoring wells, complete spaces provided for the section, township and range (see §105.J).

3. Well Information. Required data are available from water well contractor's or engineer's report.

4. Plugging Procedure. Describe, in detail, the method and materials used to plug the well or hole. Give amount of cement, bentonite, and water used. Give any other useful information, such as name of cementing company used, if any, sounded depth, any obstructions or problems encountered during plugging, size and length of casing removed or left in hole, etc. If necessary, attach another sheet or use reverse side of form to give details.

5. Remarks. Use this space to present any other pertinent information. For example, if the present owner is different than the person who had the well drilled, give the name of the initial owner.

E. Certification that the work was performed in accordance with applicable rules and regulations must be signed and dated or the form will be returned for proper completion.

F. If there are any questions, please call or write to:

Louisiana Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275
Phone: (225) 342-5562

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 11:976 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§521. Responsibilities of the Contractor

A. The contractor who agrees to plug an abandoned well or hole for the owner shall be fully responsible for plugging

the well or hole in accordance with the rules, regulations and standards stated herein. He is also responsible for completing and submitting a plugging and abandonment form (DNR-GW-2) to the department within 30 calendar days after completion of the plugging operation. The contractor shall also be responsible for informing the owner of the necessity of plugging and sealing any other water well or hole on the property that may have been previously abandoned or which may be abandoned in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-R.S. 38:3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:961 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§523. Site Inspection by the Department Representatives

A. The department may order, at any time, that the site of an abandoned water well or hole be inspected by department representatives to determine whether the work has been satisfactorily completed in accordance with the standards stated herein and as stated on the Water Well Plugging and Abandonment Form (DNR-GW-2). The owner and/or the contractor shall make all records available to the representatives of the department and the owner shall allow representatives to enter the property and visit the site(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-R.S. 38:3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:961 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§525. Availability of Water Well Data

A. ...

Louisiana Department of Natural Resources
Office of Conservation
P.O. Box 94275
Baton Rouge, LA 70804-9275
Phone: (225) 342-8244

or

U.S. Geological Survey
Water Resources Division
Box 66492
Baton Rouge, LA 70896

B. ...

Louisiana Geological Survey
3097 Energy, Coastal and Environmental Bldg.
Louisiana State University
Baton Rouge, LA 70803

C. ...

Department of Environmental Quality
Galvez Bldg.
602 North Fifth Street
Baton Rouge, LA 70802

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-R.S. 38:3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR

1:249 (May 1975), amended LR 11:961 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

§531. Methods and Standards for Plugging Abandoned Water Wells and Holes

A. - L. ...

NOTE: Plugging of abandoned monitoring wells associated with facilities regulated by the Department of Environmental Quality (DEQ) require approval from DEQ prior to actual plugging.

M. - R.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2091-R.S. 38:3097.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 11:963 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

Chapter 7. Installing Control Devices on Free Flowing Water Wells

§701. Authorization

A. As announced in the October 1985 issue of the *Louisiana Register*, the rules and regulations, stated herein, were prepared by the Louisiana Department of Transportation and Development, Office of Public Works, in accordance with R.S. 38:3094(7)(A). Effective January 1, 2010, in accordance with Act 437 of 2009, The Department of Natural Resources, Office of Conservation, hereafter referred to as *department*, is responsible for registering water wells and holes in Louisiana.

B. The rules and regulations, stated herein, became effective on November 1, 1985 and supersede the rules and regulations which had been in effect since June 1, 1977.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3094.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 11:964 (October 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended Department of Natural Resources, Office of Conservation, LR 37:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendments at LAC 56:I.Chapter 1 on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.

2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed Rule amendment will have no effect on the functioning of the family.

4. The proposed Rule amendment will have no effect on family earnings and family budget.

5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed Rule amendment.

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Natural Resources, Office of Conservation has determined that these amendments will have no estimated effect on small businesses.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., January 31, 2011, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. ENV 2011-01 on all correspondence. All inquiries should be directed to John Adams at the above addresses or by phone to 225-342-7889. No preamble was prepared.

Public Hearing

The Commissioner of Conservation will conduct a public hearing at 9 a.m., January 25, 2011, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Water Wells**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No additional implementation costs (savings) to State or Local governmental units are anticipated to implement the proposed rule amendment.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no anticipated 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)
It is the understanding of Office of Conservation staff that the majority of licensed water well contractors and drillers currently possess and regularly utilize off the shelf technology in the form of a global positioning system (GPS) device that would allow them to include the latitudinal and longitudinal coordinates of the completed water wells in the registration form in addition to providing a general location. For those that do not currently possess said technology, it is readily available for a one time cost of approximately one hundred dollars (\$100.00).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

James H. Welsh
Commissioner
1012#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Storage and Handling of Liquefied Petroleum Gases
(LAC 55:IX.181)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 40:1846 and with the Administrative Procedure Act., R.S. 49:950 et seq., hereby gives notice of its intent to amend Section 181, "National Fire Protection Association Pamphlet Numbers 54 and 58".

This text has been amended to update the standards adopted by the L.P. Gas Commission with regard to storage and handling of liquefied petroleum gases.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Numbers 54 and 58

A. The Liquefied Petroleum Gas Commission hereby adopts the *National Fuel Gas Code*, 2009 edition. The National Fire Protection Association designation is *NFPA 54-2009*. The Liquefied Petroleum Gas Commission also adopts the *Standard for the Storage and Handling of Liquefied Petroleum Gases*, 2008 edition. The National Fire Protection Association designation is *NFPA 58-2008*.

B. - E.13.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1974), amended LR 24:470 (March 1998), LR 25:1263 (July 1999), LR 25:2412 (December 1999), LR 27:2257 (December 2001), LR 31:2568 (October 2005), LR 37:

Family Impact Statement

1. The effect of these Rules on the stability of the family? These Rules should not have any affect 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 should not have any affect 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 should not have any affect on the functioning of the family.
4. The effect of these Rules on family earnings and family budget? These Rules should not have any affect on family earnings and family budget.
5. The effect of these Rules on the behavior and personal responsibility of children? These Rules should not have any 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 should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Public Comments

Interested persons may submit written comments to Department of Public Safety, Office of Legal Affairs, c/o Paul Schexnayder, Post Office Box 66614, Baton Rouge, La. 70896. Written comments will be accepted through January 15, 2010.

John Alario
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Storage and Handling of Liquefied Petroleum Gases

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in an increase in state expenditures totaling \$148 for the purchase of new editions of the National Fire Protection Association code books. The rule regarding the storage and handling of liquefied petroleum gases is amended to reflect the updated standards adopted by the Liquefied Petroleum Gas Commission. The National Fuel Gas Code is amended to reflect the standards of the 2009 edition. The National Fire Protection Association (NFPA) designation 54-1996 is amended to 54-2009, and the NFPA designation 58-1995 is amended to 58-2008. The Standard for the Storage and Handling of Liquefied Petroleum Gases is amended to reflect the updated standards of the 2008 edition.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will require the purchase price of new sections of the NFPA code books by entities regulated by the Liquefied Petroleum Gas Commission at a cost of \$148.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change should have no impact on competition and employment.

John Alario
Executive Director
1012#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections State Uniform Construction Code Council

State Uniform Construction Code (LAC 55:VI.Chapter 3)

In accordance with the provisions of R.S. 40:1730.26, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the Office of State Fire Marshal hereby

proposes to adopt the following Rule regarding the establishment of minimum standards.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

- A. - A.1.a. ...
i. repealed.

- 1.a.ii. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), LR 37:

Family Impact Statement

The proposed Rule will 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 the children.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Small Business Impact Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Interested Persons

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than December 16, 2010, at 4:30 p.m. to Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896. A public hearing is scheduled for December 20, 2010 at 10:00 a.m. at 8181 Independence Blvd., Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill Boudreaux
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: State Uniform Construction Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in additional state or local government costs or savings. The Uniform Construction Code Council is proposing to repeal a rule that deletes provisions from the International Building Code Chapter 4, Section 403.5.5, Luminous Egress Path Markings. It was not the Council's intention to delete this section.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes will have no anticipated effect on costs and/or economic benefits to directly affected persons or nongovernmental groups. The rule being replaced was not implemented.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not significantly affect competition or employment.

Jill P. Boudreaux
Undersecretary
1012#134

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Electronic Filing Mandate for Reports and Returns related to the Sports Facility Assistance Fund (LAC 61:III.1527)

Under authority of R.S. 47:1520 and 1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.1527 to mandate the electronic filing of any report or return related to the Sports Facility Assistance Fund.

Title 61

REVENUE AND TAXATION

**Part III. Administrative Provisions and Miscellaneous
Chapter 15. Mandatory Electronic Filing of Tax
Returns and Payments**

**§1527. Electronic Filing Mandate for Reports and
Returns related to the Sports Facility Assistance
Fund**

A. R.S. 47:1520(A)(1)(e) allows the secretary to require electronic filing of any return or report filed by a professional athletic team or a professional athlete which is required to be filed by the Department of Revenue for the administration of the Sports Facility Assistance Fund.

B. Effective for the 2011 tax year filings and all other tax years thereafter, all reports and returns filed by a professional athletic team or a professional athlete shall be filed electronically with the Department of Revenue using the electronic format provided by the department.

1. The returns and reports to be filed electronically include, but are not limited to, the following:

- a. L-1 with the team roster attached;
- b. L-3 reconciliation with attached, completed W-2s containing all federal information;
- c. IT 540B-NRA for nonresident athletes; and
- d. IT 540 for resident athletes.

2. The team rosters attached to the L-1 should include the following information:

- a. team or franchise name;
- b. team or franchise account number;
- c. type of game or sporting event;
- d. sporting game or event locations;
- e. practice date if applicable;
- f. sporting event or game date;
- g. the names of each player and staff member who traveled to the sporting game or event in Louisiana;
- h. the social security numbers of each player and staff member;
- i. the addresses of each player and staff member;
- j. the job description of each player and staff member;
- k. the quarterly salary of each player and staff member;
- l. total duty days as defined in LAC 61:I.1304(I)(2);
- m. Louisiana duty days which includes days of all practices, meetings and games;
- n. the Louisiana wages of each athlete and staff member;
- o. the Louisiana withholding tax of each athlete and staff member; and
- p. the total roster Louisiana withholding tax.

C. Failure to comply with this electronic filing requirement will result in the assessment of a penalty of \$1,000 per failure.

D. If it is determined that the failure to comply is attributable, not to the negligence of the taxpayer, but to other causes set forth in written form and considered reasonable by the secretary, the secretary may remit or waive payment of the whole or any part of the penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1520 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 37:

Family Impact Statement

The proposed adoption of LAC 61:III.1527 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D).

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Revenue has conducted a regulatory flexibility analysis and found that the proposed adoption of this proposed Rule will have negligible impact on small businesses.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Shone Pierre, Assistant Secretary Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Tuesday, January 25, 2011.

Public Hearing

A public hearing will be held on Wednesday, January 26, 2011, at 10 a.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Electronic Filing Mandate for Reports and Returns related to the Sports Facility Assistance Fund**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental expenditures as a result of this measure. This proposed rule requires the electronic filing of every report or return that a professional athletic team or a professional athlete is required to file with the Department of Revenue including those required for the administration of the Sports Facility Assistance Fund per Act 503 of the 2010 Regular Session of the Legislature. According to the Department of Revenue, the forms required of professional athletic teams and nonresident athletes that provide information to ensure the proper deposits to the Sports Facility Assistance Fund are already available electronically and will require no additional resources to become operational.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on governmental revenues as a result of this measure. It is expected that taxpayers are ultimately paying what is owed, regardless of the filing mechanism, and the correct amounts are being deposited to the Sports Facility Assistance Fund, although some improved compliance and accounting is possible. The proposed rule also sets a penalty of \$1,000 per failure to follow the electronic filing mandate, but income to the state is not anticipated from this penalty as full compliance is expected. The Department reports that there has been confusion about the appropriate form that nonresident professional athletes must file resulting in additional processing and penalty collection workload. The Department expects this measure will help alleviate that confusion and reduce the effort required to process and account for the collections that must flow to the Sports Facility Assistance Fund which may also reduce the collection of penalties which become self generated revenue for the Department of Revenue. An exact amount of penalties related to nonresident athletes is not known but is expected to be minimal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Every professional athletic team or professional athlete that participates in an athletic event in Louisiana would be affected by this proposed rule. Since all professional athletic teams and professional athletes should already be filing these returns and reports with the Department, any additional costs should be minimal. Professional athletic teams or professional athletes who chose not to follow the electronic filing mandate will be subject to the noncompliance penalty of \$1,000 per failure to file electronically.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
1012#131

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

New Markets Tax Credit (LAC 61:I.1911)

Under the authority of R.S. 47:6016, R.S. 47:287.785, 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, proposes to adopt LAC 61.I.1911.

The purpose of this notice is to provide guidance and to detail the process of applying for, claiming and transferring the Louisiana new markets tax credit.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

§1911. Louisiana New Markets Tax Credit

A. Application Process for New Markets Tax Credits

1. A taxpayer may apply for Louisiana new markets tax credits by submitting a new markets tax credit application to the Special Programs Division of the Louisiana Department of Revenue. The form R-10609 is available online on the department's website. Applications for new markets tax credits will be processed in the order received.

2. If a taxpayer is entitled to the credit, a new market tax credit summary sheet will be issued to the taxpayer. The summary sheet will contain a tracking number.

3. The new market tax credit summary sheet will also contain a transfer section that must be updated each time the taxpayer transfers their credit. The taxpayer must send an updated new market tax credit summary sheet to notify the department of revenue of the sale within 30 days of the sale.

4. The taxpayer must attach the new market tax credit summary sheet to their income or franchise tax return to claim the credit.

B. Applying the New Markets Tax Credit

1. New markets tax credits earned by a taxpayer or received by a taxpayer by flow-through from a partnership or LLC may be applied as detailed in Revenue Ruling 08-011-A and as explained below.

a. Credits may be applied to the tax year in which the credit allowance date occurred.

b. Credits may not be applied to penalties and interest.

c. Prior year returns that include the credit allowance date may be amended to apply credits earned that year.

d. Credits may be applied against taxes paid in a prior year and the taxes paid may be refunded. However, the new markets tax credit is nonrefundable and credits in excess of the tax paid in a prior year can only be carried forward in accordance with R.S. 47:6016(D).

e. Credits from qualified equity investments made on or after April 1, 2008, cannot be claimed on any return or prior year return that was due before December 31, 2008.

d. Credits from qualified equity investments made on or after December 1, 2009 cannot be claimed on any return or prior year return that was due before December 31, 2010.

2. New markets tax credits transferred by sale to a taxpayer may be applied as detailed in Revenue Ruling 08-011-A and as explained below.

a. Credits may be applied to a prior year's outstanding tax liability, including penalties and interest, as provided by R.S. 47:1675(H)(1)(c).

b. A taxpayer that purchases the credits may not amend their prior year returns to claim credits where no liability is currently outstanding and therefore trigger a refund.

c. Credits purchased from qualified equity investments made on or after April 1, 2008, cannot be claimed on any return or prior year return that was due before December 31, 2008.

d. Credits purchased from qualified equity investment made on or after December 1, 2009, cannot be claimed on any return or prior year return that was due before December 31, 2010.

C. Limitations on the New Markets Tax Credit

1. New markets tax credits earned from qualified equity investments issued prior to July 1, 2007, are subject to an annual \$5,000,000 cap applicable to all new markets tax credits issued for that year by the department. Once the cap is reached, no other credits will be granted for that year.

2. New markets tax credits from qualified equity investments issued after July 1, 2007, but before April 1, 2008, are subject to a \$50,000,000 cap on the entire new markets credit program.

3. New markets tax credits from qualified equity investments issued after April 1, 2008, shall be allowed as follows:

a. during the period beginning April 1, 2008, and ending December 31, 2008, \$25,000,000;

b. during the period beginning January 1, 2009, and ending November 30, 2009, \$12,500,000 plus any unissued credits from the prior period;

c. during the period beginning December 1, 2009 and ending December 31, 2010, \$12,500,000 plus any unissued credits from the prior periods; and

d. during periods beginning January 1, 2011 and after, credits shall be limited to only unused credits from prior years.

D. Additional Requirements and Limitations for Credits

1. To be issued credits on qualified low-income investments that exceed seven million five hundred thousand dollars, the Department of Economic Development must certify that the qualified low-income investment was made to a business in a targeted industry. Request for new markets tax credits from qualified low-income investments exceeding seven million five hundred thousand dollars will

be accepted by the department without certification from the Department of Economic Development if the taxpayer asserts in their application that certification has been requested. However, the new markets tax credit certification will not be issued to the taxpayer until the department receives the certification from the Department of Economic Development or the certification is not denied by the Department of Economic Development with 60 days of the request, whichever occurs first.

E. New Markets Tax Credits Transfer Process

1. Any new markets tax credits not previously claimed by a taxpayer against their income or franchise tax may be transferred or sold.

2. The original investor that is transferring credits must send an updated new market tax credit summary sheet within 30 days of the sale. The original investor should also include a new markets transfer form R-10613 with closing documents to the transferee. The new markets transfer form is available from the department's website.

3. The transferee must submit the new markets transfer form with their income or franchise tax return to claim the credits.

4. Any transferor, other than the original investor, should use a new markets transfer form to transfer credits to another Louisiana taxpayer and send a copy of the form to the department within 30 days of the sale.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:6016, R.S.47:287.785, and R.S.47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 37:

Family Impact Statement

The proposed adoption of LAC 61:III.1527 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D).

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Revenue has conducted a regulatory flexibility analysis and found that the proposed adoption of this Rule will have negligible impact on small businesses.

Public Comments

Interested persons may submit written data, views, arguments, or comments regarding this proposed rule to Shone Pierre, Assistant Secretary Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 5 p.m., Wednesday, January 26, 2011.

Public Hearing

A public hearing will be held on Thursday, January 27, 2010, at 1 p.m. in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: New Markets Tax Credit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed adoption of LAC 61:1.1911 is intended to provide guidance and to detail the process of applying for,

claiming and transferring the Louisiana New Markets Tax Credit. Act 4 of the 2008 2nd Extraordinary Session amended R.S. 47:6016 to add an additional \$50 million in aggregate tax credit over the life of the New Markets Tax Credit program, but restricted the amounts to the following each calendar year: \$25 million through 2008, \$12.5 million during 2009, and \$12.5 million during 2010. Current law provides that credits issued can only be taken against tax liabilities in the following percentages over three years: 10% 1st year, 10% 2nd year, and 5% the 3rd year. The proposed adoption of LAC 61:1.1911 will result in no implementation costs to state or local governmental units as any administrative expenses are already included in the Departmental budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The New Market Tax Credit program is not currently issuing new credits but state revenue is still being impacted by the payout from credits already issued. This proposed rule is being published to clarify the process for future appropriations and satisfy the statutory requirements of Act 4 of the 2008 2nd Extraordinary Session. Based on the fiscal note prepared for Act 4, state general fund revenues were expected to decline as a result of tax credits approximately by the following amounts: Fiscal Year 2010-11 (\$15 million), Fiscal Year 2011-12 (\$7.5 million), and Fiscal Year 2012-13 (\$2.5 million). The fiscal note assumed that all credits were claimed and represented the maximum exposure to the state by allowing the program cap to be reached each year. Actual claims have validated these estimates, and the payout schedule is proceeding as expected, barring any unforeseen recaptures. There have been no additional funds appropriated to this program since Act 4 of the 2008 2nd Extraordinary Session.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The New Markets Tax Credit program is intended to stimulate investment into urban and rural low-income areas to assist in financing community development projects, stimulate economic growth and create jobs. Companies choosing to operate in these areas in accordance with NMTC program requirements will receive a subsidy in the form of a tax credit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule may increase employment in the approved areas and will provide a competitive advantage to those obtaining the credits.

Cynthia Bridges
Secretary
1012#132

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Oyster Lease Relocation (LAC 76:531)

The Wildlife and Fisheries Commission does hereby give notice of its intent to establish the following administrative rules for the efficient and effective relocation of oyster leases which were not renewed due to such leases being wholly contained within a public oyster seed ground. Authority to develop such rules for oyster lease relocation is vested in the Wildlife and Fisheries Commission by Act 265 of the 2010 Regular Legislative Session.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§531. Oyster Lease Relocation for Leases Not Available for Renewal Due To Those Leases Being Wholly Contained Within a Public Oyster Seed Ground

A. Eligibility. Those leases which are currently located wholly within a public oyster seed ground, and any former leases which were determined by the Department of Wildlife and Fisheries to have been non-renewed since 1998 due to the fact that such leases were wholly contained within a public oyster seed ground, shall be eligible for relocation.

B. Area of Relocation. An area as determined by the Department of Wildlife and Fisheries and approved by the Office of Coastal Protection and Restoration, in consultation with the Louisiana Oyster Task Force, shall be set aside from the Public Oyster Seed Grounds east of the Mississippi River, as described in LAC 76:VII.511.

C. Amount Lease Acreage Available. Any new lease issued under this relocation program shall be for an amount of acreage not to exceed the acreage of the lease which is being relocated.

D. Notification and Application Process. The Department of Wildlife and Fisheries shall notify the leaseholder of an affected existing lease, or the leaseholder of record for a lease that was previously not renewed, of the option to relocate the lease. The affected leaseholder or leaseholder of record shall have 60 days from the date of notification to appear in person at the LDWF Oyster Lease Survey Section office to apply for a relocation lease. Applications shall be on application forms provided by the department and shall be processed by the department in the order in which they are received by the department.

E. Issuance of Relocated Leases. Relocated leases shall be issued pursuant to LAC 76:VII.501 and 503.

F. Expiration Date. This Rule shall expire on January 1, 2013.

AUTHORITY NOTE: Promulgated in accordance with Act 265 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 37:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out in R.S. 49:972(B).

Public Comments

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m., February 4, 2011 to Patrick D. Banks, LDWF Fisheries Division, Box 98000, Baton Rouge, LA 70898-9000.

Stephen W. Sagraera
Vice-Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Oyster Lease Relocation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule will be carried out using existing staff and funding level. Due to the limited number of leases that are eligible to participate in this oyster lease relocation program, the increase in costs, workload and paperwork to the state associated with implementing the proposed rule is anticipated to be minimal. Local governmental units will not be impacted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units are not anticipated to be impacted by the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Holders of oyster leases that are currently located within a public oyster seed ground and any former leases which were determined by the Department of Wildlife and Fisheries to have been non-renewed since 1998 due to the fact that such leases were located within a public oyster seed ground may benefit from the propose rule. They will be eligible to relocate or exchange their non-renewal lease acres with equal acres located in other designated areas of the state during the current lease moratorium. The economic benefit derived from the proposed rule cannot be determined at this time and will depend on the productivity of the new leased areas compared to the productivity of the non-renewal oyster lease areas.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have little or no effect on competition or employment in the public or private sectors.

Lois Azzarello
Undersecretary
1012#076

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

Senate Committee on Health and Welfare

DHH Emergency Rules Adopted on November 22, 2010

Editor's Note: These Emergency Rules may be viewed in their entirety in this edition of the *Louisiana Register* in the Emergency Rule Section.

Pursuant to La. R.S. 49:49:953(B)(4), the Senate Committee on Health and Welfare, at a duly called meeting on December 10, 2010, has made a finding that the following Emergency Rules adopted by the Department of Health and Hospitals on November 22, 2010 and captioned accordingly, are unacceptable:

1. All Inclusive Care for the Elderly Reimbursement Rate Reduction (LAC 50:XXIII.1301)
2. Ambulatory Surgical Centers Reimbursement Rate Reduction (LAC 50:XI.7503)
3. Early and Periodic Screening, Diagnosis and Treatment—Dental Program Reimbursement Rate Reduction (LAC 50:XV.6903)
4. Early and Periodic Screening, Diagnosis and Treatment—Health Services—EarlySteps Reimbursement Rate Reduction (LAC 50:XV.7107)
5. End Stage Renal Disease Facilities Reimbursement Rate Reduction (LAC 50:XI.6901 and 6903)
6. Home Health Program—Extended Nursing Services Reimbursement Rate Reduction (LAC 50:XIII.701)
7. Inpatient Hospital Services—Non-Rural, Non-State Hospitals Reimbursement Rate Reduction (LAC 50:V.953, 955, 959 and 967)

8. Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Outlier Payment Methodology (LAC 50:V.954)

9. Outpatient Hospital Services—Non-Rural, Non-State Hospitals and Children's Specialty Hospitals Reimbursement Rate Reduction (LAC:V.5313, 5317, 5513, 5517, 5713, 5719, 6115 and 6119)

10. Laboratory and Radiology Services Reimbursement Rate Reduction (LAC 50:XIX.4329 and 4334-4337)

11. Mental Health Rehabilitation Program Reimbursement Rate Reduction (LAC 50:XV.901)

12. Multi-Systemic Therapy Reimbursement Rate Reduction (LAC 50:XV.25701)

13. Personal Care Services—Long-Term Reimbursement Rate Reduction (LAC 50:XV.12917)

14. Pharmacy Program—Prescription Limit Reduction (LAC 50:XXIX.113)

15. Pregnant Women Extended Services—Dental Services Reimbursement Rate Reduction (LAC 50:XV.16107)

16. Medical Transportation Program—Emergency Ambulance Services Reimbursement Rate Reduction (LAC 50:XXVII.325 and 353)

17. Medical Transportation Program—Non-Emergency Ambulance Services Reimbursement Rate Reduction (LAC 50:XXVII.571)

18. Medical Transportation Program—Non-Emergency Medical Transportation Reimbursement Rate Reduction (LAC 50:XXVII.573)

Pursuant to La. R.S. 49:953(B)(4)(c), upon receipt by the agency of this report (December 13, 2010), the rules shall be nullified and shall be without effect.

Senator Willie L. Mount
Chairperson

1012#000

Potpourri

POTPOURRI

Office of the Governor Office of Financial Institutions

Judicial Interest Rate Determination for 2011

R.S. 13:4202(B), as amended by Acts 2001, No. 841, requires the Louisiana Commissioner of Financial Institutions to determine the judicial interest rate for the calendar year following the calculation date. The commissioner has determined the judicial interest rate for the calendar year 2011 in accordance with R.S. 13:4202(B)(1).

The commissioner ascertained that on October 1, 2010 the approved discount rate of the Federal Reserve Board of Governors was three-quarters .75 percent.

R.S. 13:4202(B)(1) mandates that on and after January 1, 2002, the judicial interest rate shall be three and one-quarter percentage points above the Federal Reserve Board of Governors approved discount rate on October 1, 2010. Thus, the effective judicial interest rate for the calendar year 2011 shall be 4.0 percent per annum.

R.S. 13:4202(B)(2) provides that the publication of the commissioner's determination in the *Louisiana Register* "shall not be considered rulemaking within the intentment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953." Therefore, (1) a Fiscal Economic Impact Statement, (2) a Family Impact Statement, and (3) a Notice of Intent are not required to be filed with the *Louisiana Register*.

John P. Ducrest, C.P.A.
Commissioner

1012#029

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Spring/Summer Examination Dates; 2011 Board Meeting Dates; Board Nominations

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

| Test Window Date | Deadline To Apply |
|------------------------------------|-------------------------|
| April 11 through April 23, 2011 | Monday, January 3, 2011 |

The board will also accept applications for the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians which will be administered through the American Association of Veterinary State Boards (AAVSB), as follows:

| Test Date | Deadline To Apply |
|--|-------------------|
| March 1 - 31, 2011 | February 1, 2011 |
| July 15 through August 15, 2011 | June 15, 2011 |
| November 15 through December 15, 2011 | October 15, 2011 |

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of board member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held February 2011. Interested persons should submit the names of nominees directly to the LVMA as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Wendy D. Parrish
Executive Director

1012#034

POTPOURRI

Department of Insurance Office of the Commissioner

Regulation 47—Actuarial Opinion and Memorandum

The Department of Insurance published a Notice of Intent for its Actuarial Division in the October 20, 2010 edition of the *Louisiana Register* (Volume 36, Number 10, page 2427). The Notice of Intent inadvertently set the public hearing on a holiday. In order to give the public additional access a second public hearing has been scheduled for Wednesday, December 22, 2010 beginning at 9:00 a.m., in the Poydras

Building's Plaza Hearing Room located at 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

1012#077

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 |
|-------------------------------|-------------|----------|----------------------------|-------------|---------------|
| Turnkey E&P Corporation | Clear Creek | L | Longbell LBR CO SWD | 003 | 56148 |
| Turnkey E&P Corporation | Clear Creek | L | CF RA SUA; William N Cox | 001 | 234783 |
| Turnkey E&P Corporation | Clear Creek | L | Richard E Doornbos Etal | 001 | 235009 |
| Turnkey E&P Corporation | Clear Creek | L | Cf Ra Sue;Patsy Cox Etal | 001 | 235681 |
| Turnkey E&P Corporation | Clear Creek | L | CF RA Sub; Patsy Cox Etal | 002 | 236153 |
| Turnkey E&P Corporation | Clear Creek | L | Temple-Inland | 001 | 236370 |
| Turnkey E&P Corporation | Clear Creek | L | CF RA Sur;Bel Minerals LLC | 001 | 237054 |
| Branta Production Company LLC | Oretta | L | Oretta SWD | 001 | 209055 |

| Operator | Field | District | Well Name | Well Number | Serial Number |
|-------------------------------|-------------------|----------|-------------------|-------------|---------------|
| Branta Production Company LLC | Oretta | L | Vua;Musser -Davis | 002 | 209431 |
| D. C. Carnes | Caddo Pine Island | S | Gardner | 001 | 43423 |
| Crescent Production Co Inc. | Sicily Island | M | Tensas Delta | 003 | 44458 |

James H. Welsh
Commissioner

1012#032

POTPOURRI
Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 3 claims in the amount of \$12,499.81 were received for payment during the period November 1, 2010 - November 30, 2010

There were 3 paid and 0 denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

| | | |
|----------|----------|------------|
| 2914.218 | 9033.085 | Terrebonne |
| 2925.769 | 9001.156 | Jefferson |
| 2933.284 | 9227.967 | Vermilion |

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle
Secretary

1012#074

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