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Executive Orders

EXECUTIVE ORDER BJ 15-24

Bond Allocation—Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. BJ 2008-47 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits (hereafter “Ceiling”);

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

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

WHEREAS, the Louisiana Public Facilities Authority has applied for an allocation of the 2015 Ceiling to be used in connection with the financing by Covington Senior Care, LLC for the acquisition, construction, and equipping a senior living community referred to as the Inspired Living of Kenner Project to be located on Loyola Drive, in the Parish of Jefferson, City of Kenner, State of Louisiana, within the boundaries of the Issuer; and

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2015 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$9,968,000	Louisiana Public Facilities Authority	Inspired Living of Kenner Project

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

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2015, provided that such bonds are delivered to the initial purchasers thereof on or before December 31, 2015.

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

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 15th day of September, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1510#003

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of State Procurement

Rebate Schedule for Cooperative Purchasing
PPM 54 (LAC 4:V.Chapter 49)

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 49. Rebate Schedule for Cooperative Purchasing—PPM Number 54

§4901. Authority

A. Pursuant to R.S. 39:1706(C) and (D), the chief procurement officer for the State of Louisiana may provide information and technical services to facilitate the cooperative use of sponsored state contracts made available for use by Louisiana's parishes, cities, towns, governmental bodies and any other subdivision of the state or public agency, public authority, public educational, health or other institution and to the extent provided by law, any other entity which expends public funds for the acquisition or leasing of supplies, services, major repairs and construction, including any nonprofit corporation operating a charity hospital. Pursuant to R.S. 39:1706(E), the chief procurement officer may enter into contractual arrangements and publish a schedule of fees for the services provided under subsections (C) and (D) of R.S. 39:1706.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4 and R.S. 39:1706(C) and (D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:2063 (October 2015).

§4903. Policy

A. As part of all cooperative contracts it shall be the policy of the Office of State Procurement to provide information services and technical services to facilitate their use statewide and to recoup those costs as authorized under R.S. 39:1706(E) by contracting directly with vendors to recover same in the form of a rebate from aggregate gross sales under the contract. The following rebate and remittance schedule should be included in all cooperative contracts where services are provided pursuant to title 39, sections 1706(C) and (D) by the central purchasing agency of the Office of State Procurement in support of cooperative purchases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4 and R.S. 39:1706(C) and (D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:2063 (October 2015).

§4905. Remittance Schedule

A. The rebate shall be contractual and shall be negotiated, and shall be a minimum of 1 percent of a vendor's gross aggregate sales under its state-wide contract unless agreed to otherwise. The rebate should be remitted by the vendor to the Office of State Procurement in accordance with this remittance schedule.

Remittance Schedule		
Fiscal Year 2016: Rebate to be a minimum of 1% of gross sales under statewide cooperative contracts		
Fiscal Quarters	Months	Vendor's Due Date
Quarter 1	July 1 st – September 30 th	October 31st
Quarter 2	October 1 st – December 31 st	January 31st
Quarter 3	January 1 st – March 31 st	April 30th
Quarter 4	April 1 st – June 30 th	July 31st
---	---	15 Calendar Days Following the Termination of the Contract for any reason

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4 and R.S. 39:1706(C) and (D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:2063 (October 2015).

§4907. Waiver

A. Nothing in this policy shall prevent the Office of State Procurement from waiving the rebate where the best interests of the state are served or from devising and contracting for additional or alternate methods of recouping costs associated with cooperative purchasing opportunities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4 and R.S. 39:1706(C) and (D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:2063 (October 2015).

Paul Holmes
State Chief Procurement Officer

1510#092

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services Economic Stability Section

Strategies to Empower People (STEP) Program
(LAC 67:III.5721)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to amend LAC 67:III, Subpart 16, Strategies to Empower People (STEP) Program, Chapter 57, Strategies to Empower People (STEP) Program, §5721, Job Readiness. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. This Emergency Rule extension is effective on October 28, 2015 and will remain in effect until the final Rule becomes effective.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, amendment of §5721 is necessary to give the department more flexibility in operating the STEP program by eliminating the work-eligible FITAP applicant requirement of registering for work during the application period and prior to certification with Louisiana Workforce Commission (LWC). Work-eligible FITAP recipients will register for work when participating in Job Readiness activities. The proposed Rule does not eliminate any work requirements as specified by law. Work activity requirements including job readiness activities are included in §5713, Work Activities.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate emergency rules to facilitate the expenditure of TANF funds is contained in Act 15 of the 2014 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter C. STEP Program Process

§5721. Job Readiness

A. DCFS will ensure job readiness services are provided through other state partners or through performance-based contracts.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 285, 2013 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014), LR 41:

Suzy Sonnier
Secretary

1510#029

DECLARATION OF EMERGENCY

Department of Children and Family Services Economic Stability Section

Supplemental Nutritional Assistance Program (SNAP)
(LAC 67:III.1942)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to repeal LAC 67:III, Subpart 3, Supplemental Nutritional Assistance Program (SNAP), Chapter 19, Certification of Eligible Households, Subchapter G, Work Requirements, Section 1942, Workforce Training and Education Pilot Initiative. This Emergency Rule shall be effective October 1, 2015 and shall remain in effect for a period of 120 days.

Pursuant to the authority granted to the department by the Food and Nutrition Services (FNS) and Act 622 of the 2014 Regular Session of the Louisiana Legislature, the department is repealing Section 1942 to terminate the Workforce Training and Education Pilot Initiative. The pilot initiative was established in Tangipahoa Parish for the purpose of enhancing workforce readiness and improving employment opportunities for SNAP recipients in that parish who are unemployed or underemployed able-bodied adults without dependents (ABAWDs). Unless exempt, these ABAWDs were required to either work an average of 20 hours per week or participate/comply with certain programs that enhance workforce readiness and improve employment for an average of 20 hours per week. Furthermore, the current ABAWD time limit waiver expires on September 30, 2015; therefore, ABAWDs statewide will be subject to the SNAP time limit.

The department considers emergency action necessary to terminate the pilot initiative. The authorization to promulgate emergency rules to facilitate the termination is contained in Act 622 of the 2014 Regular Session of the Louisiana Legislature.

**Title 67
SOCIAL SERVICES**

Part III. Economic Stability

**Subpart 3. Supplemental Nutritional Assistance
Program (SNAP)**

Chapter 19. Certification of Eligible Households

Subchapter G. Work Requirements

**§1942. Workforce Training and Education Pilot
Initiative**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 110-246, and Act 622 of the 2014 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 41:533 (March 2015), repealed LR 41:

Suzy Sonnier
Secretary

1510#015

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Bylaws of the Advisory Committee to the Student Financial Assistance Commission (LAC 28:V.221 and 233)

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)].

The proposed rulemaking will add certain schools to the membership of the commission's advisory committee and will change the term of members from two years to three years. The rulemaking also adds provisions to the business rules.

The 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 September 22, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (AC16166E).

**Title 28
EDUCATION**

**Part V. Student Financial Assistance—Higher
Education Loan Program**

**Chapter 2. Bylaws of the Advisory Committee to the
Student Financial Assistance Commission**

**Subchapter C. Membership and Officers of the
Committee**

§221. Membership

A.1. - A.3. ...

B. Rotation of Members. Voting members shall rotate according to the following schedule.

1. Louisiana State University System:
 - a. Louisiana State University at Alexandria;
 - b. Louisiana State University at Shreveport;
 - c. Louisiana State University at Eunice;
 - d. Louisiana State University at Baton Rouge.
2. Southern University System:
 - a. Southern University at Baton Rouge. The initial term shall be for one year;
 - b. Southern University at New Orleans;
 - c. Southern University at Shreveport.
3. University of Louisiana System:
 - a. University of Louisiana at Monroe. The initial term shall be for one year;
 - b. Louisiana Tech University;
 - c. McNeese State University;
 - d. Nicholls State University;
 - e. Northwestern State University;
 - f. Southeastern Louisiana University;
 - g. University of Louisiana at Lafayette;
 - h. Grambling State University;
 - i. University of New Orleans.
4. Louisiana Community and Technical College System:
 - a. Delgado Community College. The initial term shall be for one year;
 - b. Baton Rouge Community College;
 - c. Bossier Parish Community College;
 - d. Louisiana Delta Community College;
 - e. Fletcher Technical Community College;
 - f. River Parishes Community College;
 - g. South Louisiana Community College;
 - h. SOWELA Technical Community College;
 - i. Louisiana Technical College;
 - j. Central Louisiana Technical Community College;
 - k. Northshore Technical Community College;
 - l. Northwest Louisiana Technical College;
 - m. Nunez Community College;
 - n. South Central Louisiana Technical College.
5. Professional schools:
 - a. Louisiana State University Health Sciences Center at New Orleans;
 - b. Louisiana State University Health Sciences Center at Shreveport;

- c. Southern University Law Center;
 - d. Tulane Medical and Law School.
6. Louisiana Association of Independent Colleges and Universities:

- a. Centenary College;
- b. Dillard University;
- c. Louisiana College;
- d. Loyola University;
- e. New Orleans Baptist Theological Seminary;
- f. Our Lady of Holy Cross College;
- g. Our Lady of the Lake College;
- h. St. Joseph Seminary College;
- i. Tulane University;
- j. Xavier University.

7. Proprietary Schools

a. The Louisiana Career College Association shall rotate membership among the proprietary schools.

b. The rotation will ensure that all schools are offered membership before the rotation repeats.

8. Student—through September 30, 2010

a. A student member shall be selected by the financial aid officer who is a member of the advisory committee beginning with the member from the Louisiana State University System and rotating in the order of members listed above.

b. Student members shall serve one-year terms and may not serve two consecutive terms.

c. The student selected should be an employee of the financial aid office, have financial aid experience or otherwise have an interest in financial aid.

9. High School Counselors—Beginning October 1, 2011

a. One active public high school counselor selected by the Louisiana Student Counselor Association whose initial term shall be one year.

b. One active non-public high school counselor selected by the Louisiana Student Counselor Association whose initial term shall be two years.

C. Term

1.a. The term of voting members shall be for two years except as indicated in §221.B above. Members may not serve two consecutive terms, except as indicated in §221.E.2 below.

b. Beginning with the 2015-2016 year, the term of voting members shall be for three years except as follows.

i. The term of the member selected by the Louisiana Student Counselor Association to represent non-public high schools for the 2015-2016 academic year shall be one year.

ii. The term of the member selected by the Louisiana State University System, the University of Louisiana System, and the Louisiana Association of Independent Colleges and Universities beginning in the 2015-2016 academic year shall be two years.

2. Terms shall be staggered.

3. Terms shall begin on October 1 of each year.

D. Notification of Membership

1. Except for the 2007-2008 academic year, LOSFA shall send a notice to the financial aid directors of the schools who are eligible to be members of the advisory committee no later than September 1 of each year. In the notice, LOSFA shall request confirmation of that financial

aid director's willingness to serve as a member and the name of the financial aid director's designee, if there is one.

2. The financial aid director must submit the confirmation of membership by September 30 of that same year.

E. Replacements

1. If a financial aid director declines to participate or does not submit a timely confirmation, the next school in the rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director.

2. If a financial aid director is unable to complete his/her term for any reason, the financial aid director from the next school in the rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director. The replacement member shall complete the rest of the term and shall be eligible for membership for the next three-year term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007), LR 34:610 (April 2008), LR 37:2598 (September 2011), LR 41:

Subchapter D. Business Rules

§233. Order of Business

A. The order of business of regular meetings of the committee shall be as follows, unless the rules are suspended by a simple majority vote of the quorum present:

- 1. call to order;
- 2. roll call;
- 3. introductions and announcements;
- 4. corrections and approval of minutes of the preceding regular meeting and of all special meetings held subsequent thereto;
- 5. public comment;
- 6. reports and recommendations of subcommittees;
- 7. unfinished business; and
- 8. new business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 41:

Robyn Rhea Lively
Senior Attorney

1510#009

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

John R. Justice Student 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 amends the administrative rules to provide that applicants for the John R. Justice Loan Repayment Program must sign a program service agreement prior to being considered for an award and decreases the time period by which applicants must provide all supporting documentation to LOSFA.

The 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 this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective September 22, 2015, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG16167E)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education**

Scholarship and Grant Programs

Chapter 20. John R. Justice Student Grant Program

§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;
6. submit a completed John R. Justice Student Loan Program service agreement to LOSFA. If an applicant is not selected to receive an award, the agreement will be null and void.

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.

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 37:1387 (May 2011), amended LR 41:

§2007. Applicable Deadlines

A. Application Deadline

1. Applicants must complete and submit the on-line application each calendar year no later than April 30.

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 grants.

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

4. In the event all 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 20 days from the request.

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 37:1388 (May 2011), amended LR 38:1585 (July 2012), LR 41:

§2009. Service Agreement

Repealed.

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 37:1388 (May 2011), repealed LR 41:

Robyn Rhea Lively
Senior Attorney

1510#010

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of Technology Services**

Procedure for IT Contracts for Consulting Services
(LAC 34:I.Chapter 55)

The Office of the Governor, Division of Administration, Office of Technology Services, enacts LAC 34:I.5521, LAC 34:I.5523, and LAC 34:I.5525 for the procurement of information technology (IT) consulting services, IT systems, IT services, IT equipment or similar services contracts as authorized by R.S. 39:200(L). 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 effective on October 6, 2015 and shall remain in effect for a period of 120 days or until adoption of the Rule, whichever occurs first.

The Office of the Governor, Division of Administration, Office of Technology Services enacts an Emergency Rule in order to adopt provisions which will allow the Office of Technology Services the ability to make multiple awards in

information technology consulting services contracts (*Louisiana Register*, Volume 41, Number 9).

The Office of Technology Services (OTS) proposes to enact this provision to give it the ability to make multiple awards from a single request for proposals. This action is being taken via Emergency Rule in order to enable the IT strategic sourcing services request for proposal and other similar OTS solicitations to be posted in a timely manner and prevent a slowdown in providing IT services to the various state agencies. A slowdown in providing IT services could affect OTS' ability to effectuate OTS' statutory obligation to establish and coordinate all information technology services affecting the management and operations of the executive branch of state government. OTS has the sole authority and responsibility for defining and implementing the specific information technology systems and services, defining a state master information technology plan, and creating and managing information technology standards. The creation of OTS consolidates a wide variety of existing hardware platforms, operating systems, database management systems, networks, third party software, and custom applications. These legacy environments currently reside in multiple physical locations, and have been developed over many years under the direction of the each user agencies. OTS plans to apply the information technology infrastructure library/control objectives for information technology (ITIL/COBIT) process model to the task of organizing and consolidating the many separate environments; and of identifying and implementing process improvements designed to move the State to more efficient, streamlined, and cost-effective IT operations. Because there is a growing need for a flexible means of obtaining IT services quickly, efficiently, and cost effectively, the strategic sourcing services RFP will be used to identify and award contracts to multiple potential contractors who will be able to provide IT services to user agencies as quickly and efficiently as possible.

Effective October 6, 2015, the Division of Administration, Office of Technology Services enacts provisions allowing the award of multiple contracts for consulting services.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part I. Purchasing

Subpart 3. Equipment-Lease-Purchase Program

Chapter 55. Procedures for Information Technology Hardware, Software, Software Maintenance and Support Services and Hardware Maintenance

§5521. Procurement of Information Technology Consulting Services, Information Consulting Systems, Information Technology Services, Information Technology Equipment Using Multiple Awards

A. A multiple award is an award of an indefinite quantity contract for one or more information technology (IT) consulting services, IT systems, IT services, IT equipment or similar service to more than one contractor through the request for proposals or invitation to bid process. A multiple award may be in the state's best interest when award to two or more contractors is needed for adequate delivery, service, or availability. In making a multiple award, care shall be

exercised to protect and promote the principles of competitive solicitation. Multiple awards shall not be made when a single award will meet the state's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business or avoiding the resolution of tie proposals. Any such awards shall be limited to the least number of IT consultants, IT systems, IT services, or IT equipment necessary to meet the valid requirements of the Office of Technology Services. It shall be mandatory that the requirements of the Office of Technology Services that can be met under the contract be obtained in accordance with the contract, provided that:

1. the state shall reserve the right to take solicitations separately if a particular service requirement arises which exceeds the scope specified in the contract;

2. the state shall reserve the right to take solicitations separately if the contract will not meet a nonrecurring or special need of the state;

3. the state reserves the right to use its own personnel to provide similar services when such services are available and satisfy the Office of Technology Services need.

B. Where multiple award contracts exist for IT consulting services, IT systems, IT services, IT equipment or similar service, the Office of Technology Services may utilize any of the following procedures prior to issuing task orders.

1. The Office of Technology Services may prepare a request for response that may include, if applicable, the following: (A request for response is an informal process used to seek additional information to assist the state chief information officer (CIO) make a best value determination.)

a. a performance-based statement of work that includes such things as:

i. the work to be performed;

ii. location of the work;

iii. period of performance;

iv. deliverable schedule;

v. applicable performance standards;

vi. acceptance criteria;

vii. any special requirements (e.g. security clearances, special knowledge, etc.);

viii. the products or services required using generic description of products or services whenever possible;

b. if necessary or applicable, a request for submittal of a project plan for performing the task and information on the contractor's experience and/or past performance performing similar tasks;

c. a request for submittal of a firm-fixed total price for the product and/or service which are no higher than prices in the multiple award contract;

d. submit the request for response to at least three multiple award contract holders, whenever available, offering functionally equivalent products and/or services that will meet the Office of Technology Services' needs.

2. The CIO may issue task orders by allowing selected awardees to give oral presentations in lieu of written response to a request for response.

3. The CIO need not contact awardees prior to issuing an order if the CIO has information, such as price sheets or catalogs available to determine the best value for the State.

C. Evaluation and Selection of the Contractor to Receive the Task Order

1. In making a best value determination, the CIO shall place the task order(s) with the contractor(s) that meet(s) the Office of Technology Services' needs. The Office of Technology Services should give preference (where allowable) to small-entrepreneurships or small and emerging businesses when two or more contractors can provide the products and/or services at the same firm-fixed total price.

2. A best value determination is one that considers, in addition to underlying contract pricing, such factors as:

- a. probable life of the product selected;
- b. technical qualifications;
- c. delivery terms;
- d. warranty;
- e. maintenance availability;
- f. administrative costs;
- g. compatibility of a product within the user's environment;
- h. user's familiarity with the item or service; and
- i. qualifications and experience of proposed staff.

3. The Office of Technology Services shall document in the procurement file the evaluation of the contractors' response that formed the basis for the selection. The documentation shall identify the contractor from which the product and/or services were purchased, the products and/or services purchased, and the cost of the resulting order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200(L).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 41:

§5523. Intent to Use

A. If a multiple award is anticipated prior to issuing a solicitation, the method of award should be stated in the solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200(L).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 41:

§5525. Determination Required

A. The chief information officer shall make a written determination setting forth the reasons for a multiple award, which shall be made a part of the procurement file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200(L).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 41:

Richard Howze
Chief Information Officer

1510#020

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Pharmacy

Compounding for Office Use for Veterinarians
(LAC 46:LIII.2535)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing

the compounding of drugs by pharmacies, to restore the capability of pharmacies to compound preparations intended for administration by veterinarians without the necessity of a patient-specific prescription.

Pursuant to the adoption of the Drug Quality and Security Act (DQSA) by the U.S. Congress in November 2013, the board amended its rules to remove the capability of pharmacies to compound drug preparations intended for administration by practitioners without the necessity of a patient-specific prescription. With the further clarification from the federal Food and Drug Administration that the DQSA only applied to compounding of drugs for human use, and further, did not apply to the compounding of drugs for veterinary use, in combination with requests from veterinarians for the restoration of the authority for pharmacies to compound drugs for office use by veterinarians, the board has determined it appropriate to restore the authority for pharmacies to compound drugs for office use by veterinarians.

The board now seeks to amend its rules to authorize pharmacies to compound drugs for office use for veterinarians only and not for human use. In their petition to the board, the veterinarians presented examples of medications that are needed for emergency use in the veterinarian's office. Since the time required to promulgate the rule change is of such duration that a veterinarian may not be able to obtain a compounded medication necessary to save an animal's life, the board proposes to enable the temporary authority for pharmacies to compound medications for office use by veterinarians through an Emergency Rule.

The initial Emergency Rule was made effective June 1, 2015. Since that time, the board has published the Notice of Intent and conducted a public hearing on August 26 to receive comments and testimony on the proposed Rule. The board will consider those comments during their next meeting on November 18. Since the Emergency Rule will expire before that time, the board has directed the re-issuance of the Emergency Rule, with no changes to the content of the proposed Rule.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency is effective September 21, 2015 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter C. Compounding of Drugs

§2535. General Standards

A. - D. ...

E. Veterinarian Administered Compounds, also referred to as Pharmacy-Generated Drugs

1. Upon receipt of a valid non-patient-specific medical order from a licensed veterinarian, the pharmacy may compound a preparation intended for administration to an animal patient by the veterinarian.

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Pharmacy

Electronic Signature on Facsimile Prescription (LAC 46:LIII.2511)

2. These preparations may not be distributed to any other third party by the pharmacy, nor may these preparations be further re-sold or distributed by the veterinarian ordering the preparation from the pharmacy.

3. This authorization is primarily intended to facilitate the preparation of medications needed for emergency use in a veterinary office practice. Given the limited application of this authorization, which allows these products to be prepared using less rigorous standards applicable to compounding as opposed to the more rigorous standards applicable to manufacturing processes, the compounding pharmacy preparing these products shall be limited in the amount of such products they can prepare.

a. No Louisiana-licensed pharmacy may distribute any amount of practitioner-administered compounds in excess of 5 percent of the total amount of drug products dispensed and/or distributed from their pharmacy.

b. The 5 percent limitation shall be calculated on a monthly basis and shall reference the number of dosage units.

c. For those Louisiana-licensed pharmacies located outside Louisiana, the total amount distributed and/or dispensed shall reference the pharmacy's total business within the state of Louisiana.

F. Compounding Commercial Products not Available. A pharmacy may prepare a copy of a commercial product when that product is not available as evidenced by either of the following:

1. products appearing on a website maintained by the federal Food and Drug Administration (FDA) and/or the American Society of Health-System Pharmacists (ASHP);

2. products temporarily unavailable from manufacturers, as documented by invoice or other communication from the distributor or manufacturer.

G. Labeling of Compounded Preparations

1. For patient-specific compounded preparations, the labeling requirements of R.S. 37:1225, or its successor, as well as §2527 of this Chapter, or its successor shall apply.

2. For veterinarian administered compounds, the label shall contain, at a minimum, the following data elements:

a. pharmacy's name, address, and telephone number;

b. veterinarian's name;

c. name of preparation;

d. strength and concentration;

e. lot number;

f. beyond use date;

g. special storage requirements, if applicable;

h. identification number assigned by the pharmacy; and

i. name or initials of pharmacist responsible for final check of the preparation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), LR 29:2105 (October 2003), effective January 1, 2004, LR 41:97 (January 2015), LR 41:

Malcolm J. Broussard
Executive Director

1510#007

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing the formatting requirements of prescription forms, more specifically the use of an electronic signature on a prescription received by facsimile in the dispensing pharmacy.

The board recently promulgated a revision to this section of rules in January 2015. The objective of the revision project was to clarify the three methods of generating prescriptions, verbal, written, and electronic, and further, to harmonize the federal and state requirements for prescriptions for all drugs, both controlled substances and non-controlled substances. With respect to prescriptions for controlled substances, the federal rules permit the prescriber to affix an electronic signature to a prescription that is delivered electronically to the pharmacy; however, for prescriptions for controlled substances that are delivered in written form, including by facsimile, such prescriptions must be manually signed by the prescriber. The objective of the Rule project was to standardize that Rule to apply to all prescriptions, not just prescriptions for controlled substances.

In the aftermath of the Rule's promulgation, pharmacies have been reporting a number of prescriptions received by facsimile bearing an electronic signature. When contacted, the prescriber insists they are prescribing electronically. We have learned that providers of prescribing software tell their clients they are prescribing electronically, but when the provider transmits the prescription to the pharmacy it is delivered by facsimile instead of electronically. We have found that some pharmacies are not truly prepared to receive electronic prescriptions. The federal standards for controlled substance prescriptions requires the transmitter of an electronic prescription to advise the prescriber when it cannot deliver the prescription electronically. There is no reason why the transmitter cannot render the same advice for all prescriptions.

In an effort to give the prescribers, pharmacies, and their system providers an adequate opportunity to make the appropriate adjustments in their operating systems, the board proposes to delay the prohibition of electronic signatures on facsimile prescriptions for medications not listed as controlled substances until December 31, 2016. Since the period of time required to promulgate this rule is of such duration that disruptions in patient care may occur, the board proposes to enable the temporary provision through an Emergency Rule.

The initial Emergency Rule was made effective June 1, 2015. Since that time, the board published the Notice of Intent, conducted a public hearing to receive comments and testimony, and filed its report with the Joint Legislative Oversight Committee on Health and Welfare. Since the Emergency Rule will expire before the formal rulemaking

process can be completed, the board has directed the re-issuance of the Emergency Rule, with no changes to the content of the proposed Rule.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency is effective September 21, 2015 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2511. Prescriptions

A. - C.5.c. ...

d. The provisions of this Section notwithstanding, a prescription for a medication not listed as a controlled substance which is received in a pharmacy by facsimile and which bears an electronic signature of the prescriber shall be construed as a validly-formatted prescription; however, this temporary allowance shall expire at midnight on December 31, 2016.

C.6. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003), effective January 1, 2004, LR 41:98 (January 2015), LR 41:

Malcolm J. Broussard
Executive Director

1510#006

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing
and
Office of Behavioral Health

Adult Mental Health Services
Covered Services and Recipient Qualifications
(LAC 50:XXXIII.Chapters 61-67)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXXIII.Chapters 61-67 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 of Behavioral Health amended the provisions governing adult behavioral health services in order to ensure the provider certification, assessment, and reevaluation criteria are in alignment with

the approved Medicaid state plan (*Louisiana Register*, Number 41, Volume 2).

The department now proposes to amend the provisions governing adult behavioral health services in order to: 1) provide Medicaid coverage and reimbursement for license mental health professional services and mental health rehabilitative services to adult members enrolled in Bayou Health and terminate the behavioral health services rendered under the 1915(i) state plan authority; 2) establish the recipient qualifications criteria; and 3) revise the assessment and plan of care requirements. This action is being taken to protect the public health and welfare of Medicaid recipients who rely on behavioral health services by ensuring continued access to these services, and to prevent imminent peril to the public health and welfare of individuals who are in dire need of adult behavioral health services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$2,194,795 in state fiscal year 2015-2016.

Effective December 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing adult mental health services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 7. Adult Mental Health Services

Chapter 61. General Provisions

§6101. Introduction

A. The Medicaid Program provides coverage under the Medicaid State Plan for mental health services rendered to adults with mental health disorders. These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with the managed care organizations (MCOs), which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The mental health services rendered to adults shall be necessary to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level in the community.

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 38:358 (February 2012), LR 41:

§6103. Recipient Qualifications

A. Individuals, 21 years of age and older, who meet Medicaid eligibility and clinical criteria established in §6103.B, shall qualify to receive adult mental health services.

B. Qualifying individuals shall be eligible to receive the following adult mental health services.

1. Licensed mental health professional services are available to adults enrolled in Bayou Health, provided the services are determined to be medically necessary in accordance with LAC 50:I.1101.

a. - b. Repealed.

2. Mental health rehabilitation services are available to adults enrolled in Bayou Health, provided the services are determined to be medically necessary in accordance with LAC 50:I.1101, and the enrollee meets the following conditions:

a. currently presents with mental health symptoms that are consistent with a diagnosable mental disorder specified within the *Diagnostic and Statistical Manual of Mental Disorders (DSM-V)* or the *International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10)*, or subsequent revisions of these documents;

i. - iii. Repealed.

b. has at least a score of two on the level of care utilization system (LOCUS); and

c. has a condition for which services are therapeutically appropriate.

3. - 4. Repealed.

C. An adult who has previously met the criteria stated in §6103.B.2.a-c, but who now meets a composite LOCUS score of one and needs subsequent medically necessary services for stabilization and maintenance, shall be eligible for adult behavioral health services.

D. An adult with a primary diagnosis of a substance use disorder without an additional co-occurring qualifying mental health diagnosis shall not meet the criteria for mental health rehabilitation 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, Bureau of Health Services Financing, LR 38:358 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

Chapter 63. Services

§6301. General Provisions

A. All mental health services must be medically necessary, in accordance with the provisions of LAC 50:I.1101. The medical necessity for services shall be determined by a licensed mental health practitioner or physician who is acting within the scope of his/her professional license and applicable state law.

B. ...

C. There shall be recipient involvement throughout the planning and delivery of services.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall be appropriate for:

a. age;

b. development; and

c. education.

4. Repealed.

D. Anyone providing mental health services must operate within their scope of practice license.

E. ...

F. Services may be provided at a facility, in the community, or in the individual's place of residence as outlined in the plan of care. Services may be furnished in a nursing facility only in accordance with policies and procedures issued 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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

§6303. Assessments

A. For mental health rehabilitation services, each enrollee shall be assessed and have a plan of care (POC) developed.

B. Assessments shall be performed by a licensed mental health practitioner (LMHP).

C. Assessments must be performed at least every 365 days or as needed any time there is a significant change to the enrollee's circumstances.

D. 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, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

§6305. Plan of Care

A. Each enrollee who receives adult mental health rehabilitation services shall have a POC developed based upon the assessment.

B. The individualized POC shall be developed according to the criteria established by the department and in accordance with the provisions of this Rule, the provider manual and other notices or directives issued by the department.

1. The POC is reviewed at least every 365 days and as needed when there is significant change in the individual's circumstances.

C. The plan of care shall be developed by a case manager who acts as an advocate for the individual and is a source of information for the individual and the team.

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 38:359 (February 2012), LR 41:

§6307. Covered Services

A. The following mental health services shall be reimbursed under the Medicaid Program:

1. therapeutic services, including diagnosis and treatment delivered by LMHPs;

2. - 3. ...

B. Service Exclusions. The following shall be excluded from Medicaid reimbursement:

1. components that are not provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual;

2. services provided at a work site which are job tasks oriented and not directly related to the treatment of the recipient's needs; and

3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services.

C. - C.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, Bureau of Health Services Financing, LR 38:359 (February 2012), LR 41:

Chapter 65. Provider Participation

§6501. Provider Responsibilities

A. Each provider of adult mental health services shall enter into a contract with one or more of the managed care organizations in order to receive reimbursement for Medicaid covered services.

B. All services shall be delivered in accordance with federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documents to substantiate that all requirements are met.

C. Providers of adult mental health services shall ensure that all services are authorized and any services that exceed established limitations beyond the initial authorization are approved for re-authorization prior to service delivery.

D. Anyone providing adult mental health services must be certified by the department, or its designee, in addition to operating within their scope of practice license.

E. Providers shall maintain case records that include, at a minimum:

1. a copy of the plan of care and treatment plan;
2. - 5. ...
6. the goals of the plan of care and/or treatment plan.

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 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 41:

Chapter 67. Reimbursement

§6701. Reimbursement Methodology

A. Effective for dates of service on or after December 1, 2015, the department, or its fiscal intermediary, shall make monthly capitation payments to the MCOs.

B. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

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 38:360 (February 2012), LR 41:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#063

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments Mental Health Emergency Room Extensions (LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:V.2711 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 disproportionate share hospital (DSH) payments for mental health emergency room extensions (MHEREs) in order to change the deadline for hospitals that established a MHERE to sign an agreement to participate for reimbursement of uncompensated care costs for psychiatric services (*Louisiana Register*, Volume 36, Number 8).

As a result of a budgetary shortfall in state fiscal year 2015, the department determined that it was necessary to amend the provisions governing DSH payments to eliminate payments for MHEREs (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated in order to continue the provisions of the March 5, 2015 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective November 2, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions governing disproportionate share hospital payments for mental health emergency room extensions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2711. Mental Health Emergency Room Extensions

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 34:1628 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1781 (August 2010), repealed LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to Medicaid.Policy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#067

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
School-Based Nursing Services
(LAC 50:XV.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.9501 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 promulgated a Rule which adopted provisions to establish reimbursement and coverage for school-based nursing services rendered to all children enrolled in Louisiana schools (*Louisiana Register*, Volume 39, Number 10).

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recently issued guidance which removed the requirement that school-based nursing services be included on the individualized education plan (IEP) to be reimbursed by Medicaid. As a result of the CMS guidance, the department promulgated an Emergency Rule which amended the provisions governing school-based nursing services covered in the EPSDT Program to remove the IEP requirement (*Louisiana Register*, Volume 41, Number 6). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2015 Emergency Rule. This action is being taken to avoid CMS sanctions, promote the health and welfare of Medicaid eligible recipients, and to assure a more efficient and effective delivery of health care services.

Effective October 30, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid coverage of school-based nursing services covered under the Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 95. School-Based Nursing Services

§9501. General Provisions

A. - B. ...

C. School-based nursing services shall be covered for all recipients in the school system.

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, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended LR 41:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#068

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Facility Need Review
Outpatient Abortion Facilities
LAC 48:I.Chapter 125)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.12501 and §12503 and repeals §12524 in the Medical Assistance Program as authorized by R.S. 36:254. 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 Rule governing the Facility Need Review Program (FNR) in order to adopt provisions for the inclusion of outpatient abortion facilities in the FNR process (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Facility Need Review Program to remove outpatient abortion facilities from the FNR process (*Louisiana Register*, Volume 41, Number 7). The department has now found it necessary to amend the provisions of the July 1, 2015 Emergency Rule in order to correct the formatting of §12503 as a result of the promulgation of a January 20, 2015 Rule governing the FNR process. This action is being taken to avoid imminent peril to the public health, safety or welfare of women.

Effective October 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the July 1, 2015 Emergency Rule governing the Facility Need Review (FNR) program.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. ...

Outpatient Abortion Facility—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:135 (January 2015), LR 41:

§12503. General Information

A. - B. ...

C. The department will also conduct a FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. ...
4. hospice providers or inpatient hospice facilities; and

5. pediatric day health care facilities.

6. Repealed.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs/ID, ADHC providers, hospice providers, and pediatric day health care centers that meet one of the following conditions:

1. - 3. ...

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012; or

5. pediatric day health care providers that were licensed by the department before March 1, 2014, or an entity that meets all of the following requirements:

- a. has a building site or plan review approval for a PDHC facility from the Office of State Fire Marshal by March 1, 2014;

- b. has begun construction on the PDHC facility by April 30, 2014, as verified by a notarized affidavit from a licensed architect submitted to the department, or the entity had a fully executed and recorded lease for a facility for the specific use as a PDHC facility by April 30, 2014, as verified by a copy of a lease agreement submitted to the department;

- c. submits a letter of intent to the department's Health Standards Section by April 30, 2014, informing the department of its intent to operate a PDHC facility; and

- d. becomes licensed as a PDHC by the department no later than December 31, 2014.

6. - 6.d. Repealed.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:136 (January 2015), LR 41:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12524. Outpatient Abortion Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1961 (August 2012), repealed LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821, or by email to MedicaidPolicy@la.gov. Ms. Castello 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.

Kathy H. Kliebert
Secretary

1510#064

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Home and Community-Based Services Providers
Licensing Standards
(LAC 48:I.Chapters 50 and 51)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.Chapter 50 and adopts Chapter 51 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.2. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 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 licensing standards for home and community-based services (HCBS) providers to revise the definitions and the staffing qualifications (*Louisiana Register*, Volume 40, Number 5).

The department promulgated an Emergency Rule which amended the provisions governing the licensing standards for HCBS providers to clarify these provisions and to include licensing provisions for monitored in-home caregiving services (*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule. This action is being taken to protect the health and welfare of Louisiana citizens who depend on services rendered by HCBS providers.

Effective November 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for HCBS providers.

Title 48
PUBLIC HEALTH—GENERAL
Part 1. General Administration
Subpart 3. Licensing and Certification
Chapter 50. Home and Community-Based Services
Providers Licensing Standards
Subchapter A. General Provisions

§5001. Introduction

A. - B. ...
C. Providers of the following services shall be licensed under the HCBS license:

1. - 5. ...
6. supervised independent living (SIL), including the shared living conversion services in a waiver home;
7. supported employment; and
8. monitored in-home caregiving (MIHC).

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. - 4. ...
5. any person who is employed as part of a Department of Health and Hospitals' authorized self-direction program; and

a. for purposes of these provisions, a self-direction program shall be defined as a service delivery option based upon the principle of self-determination. The program enables clients and/or their authorized representative(s) to become the employer of the people they choose to hire to provide supports to them;

6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:63 (January 2012), amended LR 38:1410 (June 2012), LR 41:1007 (May 2014), LR 41:

§5003. Definitions

* * *

Monitored In-Home Caregiving—services provided by a principal caregiver to a client who lives in a private unlicensed residence. The principal caregiver shall reside with the client, and shall be contracted by the licensed HCBS provider having a MIHC service module.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:64 (January 2012), amended LR 41:1007 (May 2014), LR 41:

§5005. Licensure Requirements

A. - B.8. ...

C. An HCBS provider shall provide only those home and community-based services or modules:

1. specified on its license; and
2. only to clients residing in the provider's designated service area, DHH region, or at the provider's licensed location.

D. - J.1, Example. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:65 (January 2012), amended LR 41:

§5007. Initial Licensure Application Process

A. ...

B. The initial licensing application packet shall include:

1. - 9. ...

10. any other documentation or information required by the department for licensure including, but not limited to, a copy of the facility need review approval letter.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:66 (January 2012), amended LR 41:

Subchapter D. Service Delivery

§5043. Contract Services

A. ...

B. When services are provided through contract, a written contract must be established. The contract shall include all of the following items:

1. - 4. ...

5. a statement that the person contracted shall meet the same qualifications and training requirements as the position being contracted;

B.5.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended LR 41:

Subchapter F. Provider Responsibilities

§5055. Core Staffing Requirements

A. - D.4. ...

E. Direct Care Staff

1. ...

2. The provider shall employ, either directly or through contract, direct care staff to ensure the provision of home and community-based services as required by the ISP.

E.3. - M.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended LR: 40:1001 (May 2014), LR 41:

Chapter 51. Home and Community-Based Services Providers

Subchapter N. Monitored In-Home Caregiving Module

§5101. General Provisions

A. Monitored in-home caregiving (MIHC) services are provided by a principal caregiver to a client who lives in a private unlicensed residence.

1. The principal caregiver shall:

- a. be contracted by the licensed HCBS provider having a MIHC service module; and
- b. reside with the client.

2. Professional staff employed by the HCBS provider shall provide oversight, support, and monitoring of the principal caregiver, service delivery, and client outcomes through on-site visits, training, and daily web-based electronic information exchange.

B. Providers applying for the monitored in-home caregiving module under the HCBS license shall meet the core licensing requirements (except those set forth in

§5005.B.4, §5005.C. and §5007.F.1.c) and the module specific requirements of this Section.

C. During any survey or investigation of the HCBS provider with the MIHC module conducted by the DHH-HSS, the survey process begins once the surveyor enters either the client's place of residence or the provider's licensed place of business. When the survey begins at the client's residence, the provider shall transmit any records requested by the HSS surveyor within two hours of such request to the location as designated by the HSS surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5103. Staffing Requirements, Qualifications, and Duties

A. The MIHC provider shall employ a registered nurse (RN) and a care manager who will monitor all clients served. The RN or the care manager may also serve as the administrator if he/she meets the requirements as set forth in §5055.A.1.

B. The HCBS provider with a MIHC module shall contract with at least one principal caregiver for each client served.

1. The principal caregiver shall:

- a. serve only one client at any time; and
- b. be able to provide sufficient time to the client as required to provide the care in accordance with the ISP.

2. Prior to MIHC services being provided to the client, the HCBS provider shall perform an assessment of the client's ability to be temporarily unattended by the principal caregiver and determine how the client will manage safely in the qualified setting without the continuous presence of a principal caregiver.

C. The MIHC registered nurse shall:

1. be licensed and in good standing with the Louisiana State Board of Nursing; and
2. have at least two years' experience in providing care to the elderly or to adults with disabilities.

D. The responsibilities of the registered nurse include:

1. participating in the determination of the qualified setting for MIHC services, based on on-site assessment of the premises;

2. ensuring that the client's applicable health care records are available and updated as deemed necessary;

3. developing, in collaboration with the care manager, client and principal caregiver, the client's person-centered ISP, based upon assessment of the client and medical information gathered or provided;

4. periodically reviewing and updating, at least annually, each client's ISP;

5. certifying, training, and evaluating principal caregivers in conjunction with the care manager;

6. monitoring, through daily review of electronic client progress notes, observation of at-home visits, and by documented consultations with other involved professionals, the status of all clients to ensure that MIHC services are delivered in accordance with the ISP;

7. conducting on-site visits with each client at the qualified setting at least every other month or more often as deemed necessary by the client's health status;

8. completing a nursing progress note corresponding with each on-site visit or more often as deemed necessary by the client's health status; and

9. planning for, and implementing, discharges of clients from MIHC services relative to if the health care needs of the client can be met in the qualified setting.

E. MIHC Care Manager Qualifications

1. The MIHC care manager shall meet one of the following requirements:

a. possess a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education;

b. possess a bachelor's or master's degree in nursing (RN) currently licensed in Louisiana (one year of experience as a licensed RN will substitute for the degree);

c. possess a bachelor's or master's degree in a human service related field which includes:

- i. psychology;
- ii. education;
- iii. counseling;
- iv. social services;
- v. sociology;
- vi. philosophy;
- vii. family and participant sciences;
- viii. criminal justice;
- ix. rehabilitation services;
- x. substance abuse treatment;
- xi. gerontology; or
- xii. vocational rehabilitation; or

d. possess a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields in §5103.E.1.c.i-xii.

2. The MIHC care manager shall have at least two years' experience in providing care to the elderly or to adults with disabilities.

3. The MIHC care manager may serve as the administrator of the HCBS provider; however, any such individual that serves as both administrator and care manager shall meet both sets of minimum qualifications and have the ability to service both sets of specified functions.

F. Care Manager Responsibilities. The following responsibilities of the care manager for the MIHC module shall substitute for the requirements in §5055.I and §5055.J. The responsibilities of the MIHC care manager shall include:

1. conducting the initial and ongoing assessment and determination of the qualified setting;

2. certifying, training, and evaluating principal caregivers in conjunction with the registered nurse;

3. developing, in collaboration with the registered nurse, an ISP for delivery of MIHC services for each client, based upon assessment and medical information gathered or provided;

4. monitoring, in collaboration with the registered nurse, through daily review of electronic client progress notes, and observation of at-home visits, the status of all clients to ensure that all MIHC services are delivered;

5. conducting on-site visits with each client at the qualified setting every other month or more often as deemed necessary by the client's health status;

6. completing a care management client progress note corresponding with each on-site visit every other month or more often as the client's condition warrants;

7. assisting with obtaining information and accessing other health-care and community services in accordance with the ISP;

8. reviewing and documenting the fire and safety procedures for the qualified setting;

9. providing training related to MIHC services for each principal caregiver before the principal caregiver begins to provide care;

10. participating in discharge planning of clients from monitored in-home care services by determining if the needs of the client can be met safely in the qualified setting;

11. reviewing and documenting that the qualified setting continues to meet the needs of the client, in accordance with the ISP, at every on-site visit and as situations change; and

12. being readily accessible and available to the principal caregivers either by telephone or other means of prompt communication.

a. The care manager shall maintain a file on each principal caregiver which shall include documentation of each principal caregiver's performance during the care manager's bi-monthly on-site visit and more often as caregiver's performance warrants.

G. MIHC Principal Caregiver Qualifications. The following principal caregiver qualifications under the MIHC module shall substitute for the requirements in §5055.F.

1. The principal caregiver shall be certified by the HCBS provider before serving a client.

2. In order to be certified, the principal caregiver applicant shall:

a. participate in all required orientations, trainings, monitoring, and corrective actions required by the HCBS provider;

b. have a criminal background check conducted by the HCBS provider in accordance with the applicable state laws;

c. comply with the provisions of R.S. 40:2179-2179.2 and the rules regarding the Direct Service Worker Registry;

d. be at least 21 years of age and have a high school diploma or equivalent;

e. have the ability to read, write, and carry out directions competently as assigned; and

f. be trained in recognizing and responding to medical emergencies of clients.

3. To maintain certification, the principal caregiver shall reside in the state of Louisiana and shall provide MIHC services in a qualified setting located in Louisiana.

H. MIHC Principal Caregiver Responsibilities. The following principal caregiver responsibilities under the MIHC module shall substitute for the responsibilities in §5055.G. The responsibilities of the principal caregiver shall include:

1. supervision and assistance with personal care services for the client that is necessary for his/her health, safety and well-being in accordance with the ISP;

2. monitoring and reporting any non-urgent or non-emergency changes in the client's medical condition to the HCBS care manager;

3. promptly reporting and communicating a client's request for services or change in services to the care manager;

4. maintaining the qualified setting consistent with the criteria noted herein;

5. completing and submitting to the HCBS agency an electronic client progress note daily;

6. providing ongoing supervision of health-related activities, including, but not limited to:

a. reminding the client about prescribed medications;

b. ensuring that the client's prescriptions are refilled timely;

c. transporting or arranging for client transportation to medical and other appointments;

d. assisting the client to comply with health care instructions from health care providers, including but not limited to, dietary restrictions;

e. recognizing and promptly arranging for needed urgent medical care by activating the 911 call system;

f. notifying the care manager of the need for alternative care of the client;

g. immediately reporting any suspected abuse, neglect, or exploitation of a client to the HCBS care manager, as well as timely reporting any suspected abuse, neglect, or exploitation of a client to any other persons required by law to receive such notice;

h. immediately notifying the care manager when any of the following events occur:

i. death of a client;

ii. a medical emergency or any significant change in a client's health or functioning;

iii. a fire, accident, and/or injury that requires medical treatment or the medical diagnosis of a reportable communicable disease of the client and/or principal caregiver;

iv. any planned or unexpected departure from the residence by a client or principal caregiver; and

v. all other client or principal caregiver major incidents or accidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5105. Operational Requirements for Monitored In-Home Caregiving

A. Training. The following requirements for training and competency for the MIHC module shall substitute for the training and competency requirements in §5055.K, §5055.L, and §5055.M.

1. Prior to the principal caregiver providing MIHC services to a client, the HCBS provider shall ensure that the principal caregiver satisfactorily completes documented training in the following areas:

a. the client's support needs in accordance with the ISP, including the following:

i. medical and behavioral diagnoses;

ii. medical and behavioral health history;

iii. required ADLs and IADLs;

iv. management of aggressive behaviors, including acceptable and prohibited responses; and

v. any other pertinent information.

b. completion and transmission of the daily electronic client progress note;

c. emergency and safety procedures, including the HCBS provider's fire, safety, and disaster plans;

i. this training shall include recognizing and responding to medical emergencies or other emergencies that require an immediate call to 911;

d. detection and reporting suspected abuse, neglect and exploitation, including training on the written policies and procedures of the HCBS provider regarding these areas;

e. written policies and procedures of the HCBS provider including, but not limited to:

i. documentation and provider's reporting requirements;

ii. infection control;

iii. safety and maintenance of the qualified setting;

iv. assistance with medication(s);

v. assistance with ADLs and IADLs;

vi. transportation of clients; and

vii. client rights and privacy;

f. confidentiality;

g. detecting signs of illness or dysfunction that warrant medical or nursing intervention; and

h. the roles and responsibilities of the HCBS staff and the principal caregiver.

2. The HCBS provider shall ensure that each principal caregiver satisfactorily completes a basic first aid course within 45 days of hire.

B. Transmission of Information

1. The HCBS provider shall use secure, web-based information collection from principal caregivers for the purposes of monitoring client health and principal caregiver performance.

2. All protected health information shall be transferred, stored, and utilized in compliance with applicable federal and state privacy laws.

3. HCBS providers shall sign, maintain on file, and comply with the most current DHH HIPAA Business Associate Addendum.

C. Monitoring. The HCBS provider shall provide ongoing monitoring of the client and the performance of the principal caregiver in accordance with the ISP. Ongoing monitoring shall consist of the following:

1. conducting on-site visits with each client at the qualified setting monthly by either the RN or the care manager in order to monitor the health and safety status of the client and to ensure that all MIHC services are delivered by the principal caregiver in accordance with the ISP;

2. reviewing and documenting at least every other month that the qualified setting meets the needs of the MIHC services to be provided to the client in accordance with the ISP;

3. receiving and reviewing the daily electronic client progress notes to monitor the client's health status and principal caregiver's performance to ensure appropriate and timely follow up;

4. ensuring the competency of the principal caregiver by written or oral exam before providing services and annually; and

5. ensuring that each principal caregiver receives annual training to address the needs of the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5107. Qualified Setting Provisions

A. The residence where MIHC services are provided to a client shall be a qualified setting as stipulated herein. The qualified setting determination shall be completed by the HCBS provider as part of the admission process and on an on-going basis as stipulated herein.

B. In order for a setting to be determined qualified for MIHC services, the setting shall meet the following criteria:

1. is a private residence located in Louisiana, occupied by the client and a principal caregiver and shall not be subject to state licensure or certification as a hospital, nursing facility, group home, intermediate care facility for individuals with intellectual disabilities or as an adult residential care provider;

2. is accessible to meet the specific functional, health and mobility needs of the client residing in the qualified setting;

3. is in compliance with local health, fire, safety, occupancy, and state building codes for dwelling units;

4. is equipped with appropriate safety equipment, including, at a minimum, an easily accessible class ABC fire extinguisher, smoke and carbon monoxide detectors (which shall be audible in the client's and principal caregiver's sleeping areas when activated);

5. is equipped with heating and refrigeration equipment for client's meals and/or food preparation, e.g. warming or cooling prepared foods;

6. has a bedroom for the client which shall contain a bed unit appropriate to his/her size and specific needs that includes a frame, a mattress, and pillow(s). The

bedroom shall have a closeable door and window coverings to ensure privacy of the client with adequate lighting to provide care in accordance with the ISP;

7. has a closet, permanent or portable, to store clothing or aids to physical functioning, if any, which is readily accessible to the client or the principal caregiver;

8. has a bathroom with functioning indoor plumbing for bathing and toileting with availability of a method to maintain safe water temperatures for bathing;

9. is equipped with functional air temperature controls which maintain an ambient seasonal temperature between 65 and 80 degrees Fahrenheit;

10. is maintained with pest control;

11. is equipped with a 24 hour accessible working telephone and/or other means of communication with health care providers;

12. is equipped with household first aid supplies to treat minor cuts or burns; and

13. as deemed necessary, has secured storage for potentially hazardous items, such as fire arms and ammunition, drugs or poisons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5109. Waiver of Module Provisions

A. In its application for a license, or upon renewal of its license, a provider may request a waiver of specific MIHC module licensing provisions.

1. The waiver request shall be submitted to HSS, and shall provide a detailed description as to why the provider is requesting that a certain licensing provision be waived.

2. HSS shall review such waiver request. Upon a good cause showing, HSS, at its discretion, may grant such waiver, provided that the health, safety, and welfare of the client is not deemed to be at risk by such waiver of the provision(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821, or by email to MedicaidPolicy@la.gov. Ms. Castello 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.

Kathy H. Kliebert
Secretary

1510#069

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Electronic Visit Verification
(LAC 50:XXI.2705)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopt LAC 50:XXI.2705 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 of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals with physical, mental or functional impairments through the Adult Day Health Care (ADHC) Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult

Services propose to amend the provisions governing the ADHC Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

This action is being taken to promote the health and welfare of ADHC Waiver participants by assuring that they receive the services they need, and to ensure that these services are rendered in an efficient and cost-effective manner. It is estimated that implementation of this Emergency Rule will reduce expenditures in the ADHC Waiver Program by approximately \$1,048,753 for state fiscal year 2015-2016.

Effective November 1, 2015, 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 to establish requirements for the use of an EVV system.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers**

Subpart 3. Adult Day Health Care

Chapter 27. Provider Responsibilities

§2705. Electronic Visit Verification

A. Effective for dates of service on or after November 1, 2015, Adult Day Health Care Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the ADHC Waiver provider manual.

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 41:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#065

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers Community Choices Waiver (LAC 50:XXI.8329 and 8601)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXI.8329 and §8601 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 of Aging and Adult Services amended the provisions governing the Community Choices Waiver to add two new waiver services, to incorporate a new service delivery method and to clarify the provisions governing personal assistance services (*Louisiana Register*, Volume 40, Number 4). The department promulgated an Emergency Rule which amended the provisions governing the Community Choices Waiver in order to clarify the provisions governing monitored in-home caregiving services, and to revise the provisions governing the organized health care delivery system (*Louisiana Register*, Volume 40, Number 11).

This Emergency Rule is being promulgated to amend the November 20, 2014 Emergency Rule in order to clarify the provisions of this rule. This action is being taken to promote the health and welfare of waiver participants.

Effective October 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions of the November 20, 2014 Emergency Rule governing the Community Choices Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waivers

Subpart 7. Community Choices Waiver

Chapter 83. Covered Services§8329. Monitored In-Home Caregiving Services

A. Monitored in-home caregiving (MIHC) services are provided by a principal caregiver to a participant who lives in a private unlicensed residence. The principal caregiver shall be contracted by the licensed HCBS provider having a MIHC service module. The principal caregiver shall reside with the participant. Professional staff employed by the HCBS provider shall provide oversight, support and monitoring of the principal caregiver, service delivery, and participant outcomes through on-site visits, training, and daily, web-based electronic information exchange.

B. - B.6. ...

C. Unless the individual is also the spouse of the participant, the following individuals are prohibited from

being paid as a monitored in-home caregiving principal caregiver:

1. - 5. ...

D. Participants electing monitored in-home caregiving services shall not receive the following community choices waiver services during the period of time that the participant is receiving monitored in-home caregiving services:

1. - 3. ...

E. Monitored in-home caregiving providers must be licensed HCBS providers with a monitored in-home caregiving module who employ professional staff, including a registered nurse and a care manager, to support principal caregivers to perform the direct care activities performed in the home. The agency provider must assess and approve the home in which services will be provided, and shall enter into contractual agreements with caregivers who the agency has approved and trained. The agency provider will pay per diem stipends to caregivers.

F. The MIHC provider must use secure, web-based information collection from principal caregivers for the purposes of monitoring participant health and caregiver performance. All protected health information must be transferred, stored, and otherwise utilized in compliance with applicable federal and state privacy laws. Providers must sign, maintain on file, and comply with the most current DHH HIPAA Business Associate Addendum.

1. - 3. Repealed.

G. ...

1. Monitored in-home caregiving services under tier 1 shall be available to the following resource utilization categories/scores as determined by the MDS-HC assessment:

- a. special rehabilitation 1.21;
- b. special rehabilitation 1.12;
- c. special rehabilitation 1.11;
- d. special care 3.11;
- e. clinically complex 4.31;
- f. clinically complex 4.21;
- g. impaired cognition 5.21;
- h. behavior problems 6.21;
- i. reduced physical function 7.41; and
- j. reduced physical function 7.31.

2. Monitored in-home caregiving services under tier 2 shall be available to the following resource utilization categories/scores as determined by the MDS-HC assessment:

- a. extensive services 2.13;
- b. extensive services 2.12;
- c. extensive services 2.11; and
- d. special care 3.12.

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 40:792 (April 2014), amended LR 41:

Chapter 86. Organized Health Care Delivery System §8601. General Provisions

A. - C. ...

D. Prior to enrollment, an OHCDs must show the ability to provide all of the services available in the Community Choices Waiver on December 1, 2012, with the exceptions of support coordination, transition intensive support

coordination, transition services, and adult day health care if there is no licensed adult day health care provider in the service area.

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 40:792 (April 2014), amended LR 41:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#066

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services Non-Rural, Non-State Hospitals Public Hospitals Supplemental Payments (LAC 50:V.963)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.963 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 inpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (*Louisiana Register*, Volume 39, Number 6). The department now proposes to amend the reimbursement methodology governing inpatient hospital services in order to amend the provisions governing supplemental Medicaid payments to qualifying non-rural, non-state public hospitals.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$14,424,054 for state fiscal year 2015-2016.

Effective October 1, 2015, 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 public 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

§963. Public Hospitals

A. - B.1. ...

a. be designated as a major teaching hospital by the department as of July 1, 2015 and have at least 300 licensed acute hospital beds ; or

B.1.b. - 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, Bureau of Health Services Financing, LR 38:2772 (November 2012), amended LR 38:3181 (December 2012), repromulgated LR 39:95 (January 2013), amended LR 39:1471 (June 2013), LR 41:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#008

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services Non-Rural, Non-State Hospitals Reinstatement of Additional Payments for Hemophilia Blood Products (LAC 50:V.965)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.965 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

inpatient hospital services rendered by non-rural, non-state acute care hospitals to provide additional reimbursements to certain hospitals for the extraordinary costs incurred in the purchase of blood products for Medicaid recipients who have been diagnosed with hemophilia (*Louisiana Register*, Volume 34, Number 10) and other rare bleeding disorders (*Louisiana Register*, Volume 35, Number 4).

As a result of a budget shortfall in state fiscal year 2015, 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 rendered by non-rural, non-state hospitals to eliminate the additional reimbursements for hemophilia blood products purchased by hospitals (*Louisiana Register*, Volume 41, Number 3).

Act 16 of the 2015 Regular Session of the Louisiana Legislature allocated funding to the department to reinstate the additional reimbursements for hemophilia related blood products. The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to reinstate reimbursements for costs incurred in the purchase of blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for, hemophilia (*Louisiana Register*, Volume 41, Number 7).

This Emergency Rule is being promulgated to continue the provisions of the July 1, 2015 Emergency Rule. This Emergency Rule is being promulgated to avoid imminent peril to the public health, safety and welfare of Medicaid recipients by ensuring that they have access to medically necessary hospital services and medications for the treatment of hemophilia.

Effective October 30, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in order to reinstate additional reimbursements for hemophilia blood products.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§965. Hemophilia Blood Products

A. Effective for dates of service on or after July 1, 2015, the Department of Health and Hospitals shall provide additional reimbursements to certain non-rural, non-state acute care hospitals for the extraordinary costs incurred in purchasing blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for hemophilia.

B. Hospital Qualifications. To qualify for the additional reimbursement, the hospital must:

1. be classified as a major teaching hospital and contractually affiliated with a university located in Louisiana that is recognized by the Centers for Disease Control and Prevention and the Health Resource and Services Administration, Maternal and Child Health Bureau as maintaining a comprehensive hemophilia care center;

2. have provided clotting factors to a Medicaid recipient who:

a. has been diagnosed with hemophilia or other rare bleeding disorders for which the use of one or more clotting factors is Food and Drug Administration (FDA) approved; and

b. has been hospitalized at the qualifying hospital for a period exceeding six days; and

3. have actual cost exceeding \$50,000 for acquiring the blood products used in the provision of clotting factors during the hospitalization;

a. actual cost is the hospital's cost of acquiring blood products for the approved inpatient hospital dates of service as contained on the hospital's original invoices, less all discount and rebate programs applicable to the invoiced products.

C. Reimbursement. Hospitals who meet the qualifications in §965.B may receive reimbursement for their actual costs that exceed \$50,000 if the hospital submits a request for reimbursement to the Medicaid Program within 180 days of the patient's discharge from the hospital.

1. The request for reimbursement shall be submitted in a format 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, Office of the Secretary, Bureau of Health Services Financing, LR 34:2176 (October 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:674 (April 2009), LR 41:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#070

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Public-Private Partnerships
Reimbursement Methodology
(LAC 50:V.1703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1703 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 promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services. Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative (*Louisiana Register*, Volume 39, Number 11). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient psychiatric hospital services provided by non-state owned hospitals participating in public-private partnerships (*Louisiana Register*, Volume 39, Number 1). In April 2013, the department promulgated an Emergency Rule to continue the provisions of the January 2, 2013 Emergency Rule (*Louisiana Register*, Volume 39, Number 4).

The department amended the provisions governing the reimbursement methodology for inpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state-owned and operated facility to establish an interim per diem reimbursement (*Louisiana Register*, Volume 39, Number 4). In June 2013, the department determined that it was necessary to rescind the January 2, 2013 and the May 3, 2013 Emergency Rules governing Medicaid payments to non-state owned hospitals for inpatient psychiatric hospital services (*Louisiana Register*, Volume 39, Number 6). The department promulgated an Emergency Rule which amended the provisions of the April 15, 2013 Emergency Rule in order to revise the formatting of these provisions as a result of the promulgation of the June 1, 2013 Emergency Rule to assure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code* (LAC) (*Louisiana Register*, Volume 39, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective November 14, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid payments for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 17. Public-Private Partnerships

§1703. Reimbursement Methodology

A. Reserved.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and

Hospitals to provide acute care hospital services to Medicaid and uninsured patients and which assumes providing services that were previously delivered and terminated or reduced by a state owned and operated facility shall be reimbursed as follows:

1. The inpatient reimbursement shall be reimbursed at 95 percent of allowable Medicaid costs. The interim per diem reimbursement may be adjusted not to exceed the final reimbursement of 95 percent of allowable Medicaid costs.

C. - E.3. Reserved.

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 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#071

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Public-Private Partnerships
Supplemental Payments
(LAC 50:V.Chapter 17)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 17 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 promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative. This Emergency Rule is being promulgated to continue the provisions of the November 1, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective October 26, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing adopts

provisions to establish supplemental Medicaid payments for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 17. Public-Private Partnerships

§1701. Qualifying Hospitals

A. Non-State Privately Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall provide supplemental Medicaid payments for inpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Non-State Publicly Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for inpatient hospital services rendered by non-state publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

C. Non-State Free-Standing Psychiatric Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for inpatient psychiatric hospital services rendered by non-state privately or publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately or publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured psychiatric hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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 41:

§1703. Reimbursement Methodology

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.272.

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 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#072

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20001)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20001 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 provides reimbursement to nursing facilities, through vendor payments, for services rendered to Medicaid eligible individuals who reside in nursing facilities.

For state fiscal year (SFY) 2015-16, the department determined it was necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200, and to impose provisions to ensure that the rates in effect do not increase for the SFY 2016 rating period (*Louisiana Register*, Volume 41, Number 7).

This Emergency Rule is being promulgated in order to continue the provisions of the July 11, 2015 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective November 9, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20001. General Provisions

A. Definitions

Administrative and Operating Cost Component—the portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

Assessment Reference Date—the date on the minimum data set (MDS) used to determine the due date and delinquency of assessments. This date is used in the case-mix reimbursement system to determine the last assessment for each resident present in the facility and is included in the quarterly case-mix report.

Base Resident-Weighted Median Costs and Prices—the resident-weighted median costs and prices calculated in accordance with §20005 of this Rule during rebase years.

Calendar Quarter—a three-month period beginning January 1, April 1, July 1, or October 1.

Capital Cost Component—the portion of the Medicaid daily rate that is:

- a. attributable to depreciation;
- b. capital related interest;
- c. rent; and/or
- d. lease and amortization expenses.

Care Related Cost Component—the portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

Case Mix—a measure of the intensity of care and services used by similar residents in a facility.

Case-Mix Index (CMI)—a numerical value that describes the resident's relative resource use within the groups under the resource utilization group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

Case-Mix MDS Documentation Review (CMDR)—a review of original legal medical record documentation on a randomly selected MDS assessment sample. The original legal medical record documentation supplied by the nursing facility is to support certain reported values that resulted in a specific RUG classification. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

Cost Neutralization—refers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

Delinquent MDS Resident Assessment—an MDS assessment that is more than 121 days old, as measured by the assessment reference date (ARD) field on the MDS.

Direct Care Cost Component—the portion of the Medicaid daily rate that is attributable to:

- a. registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;

- b. a proportionate allocation of allowable employee benefits; and

- c. the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

Facility Cost Report Period Case-Mix Index—the average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2011-December 31, 2011 cost report period would use the facility-wide average case-mix indices calculated for March 31, 2011, June 30, 2011, September 30, 2011 and December 31, 2011.

Facility-Wide Average Case-Mix Index—the simple average, carried to four decimal places, of all resident case-mix indices based on the last day of each calendar quarter. If a facility does not have any residents as of the last day of a calendar quarter or the average resident case-mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case-mix index using occupied and valid statewide facility case-mix indices may be used.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter, referred to as the point-in-time.

Index Factor—will be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care facilities certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the current MDS assessment required and approved by the Centers for Medicare and Medicaid Services (CMS).

MDS Supportive Documentation Guidelines—the department's publication of the minimum medical record documentation guidelines for the MDS items associated with the RUG-III or its successor classification system. These guidelines shall be maintained by the department and updated and published as necessary.

Pass-Through Cost Component—includes the cost of property taxes and property insurance. It also includes the provider fee as established by the Department of Health and Hospitals.

Preliminary Case Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter.

Rate Year—a one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

Resident-Day-Weighted Median Cost—a numerical value determined by arraying the per diem costs and total actual resident days of each nursing facility from low to high and identifying the point in the array at which the

cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix MDS documentation review and concludes the review.

a. The Summary Review Results letter will be sent to the nursing facility within 10 business days after the final exit conference date.

Supervised Automatic Sprinkler System—a system that operates in accordance with the latest adopted edition of the National Fire Protection Association's *Life Safety Code*. It is referred to hereafter as a fire sprinkler system.

Two-Hour Rated Wall—a wall that meets American Society for Testing and Materials International (ASTM) E119 standards for installation and uses two-hour rated sheetrock.

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

B. Effective for the rate period of July 1, 2015 through June 30, 2016, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and imposes the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2014.

2. All costs and cost components that are required by rule to be trended forward will only be trended forward to the midpoint of the 2015 state fiscal year (December 31, 2014).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2014.

4. Base capital values for the Bed Buy-Back program (§20012) purposes will be set equal to the value of these items as of July 1, 2014.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2015.

6. As of the July 1, 2016 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to

account for the suspended year of aging occurring as of the July 1, 2015 rating period.

7. No other provisions of LAC 50:II.Chapter 200 shall be suspended for this time period.

Base Resident—Repealed.

Calendar Quarter—Repealed.

Capital Cost Component—Repealed.

1. - 4. Repealed.

Care Related Cost Component—Repealed.

Case Mix—Repealed.

Case-Mix Index—Repealed.

Case-Mix MDS Documentation Review (CMDR)—Repealed.

Cost Neutralization—Repealed.

Delinquent MDS Resident Assessment—Repealed.

Direct Care Cost Component—Repealed.

1. - 3. Repealed.

Facility Cost Report Period Case-Mix Index—Repealed.

Example: Repealed.

Facility-Wide Average Case-Mix Index—Repealed.

Final Case-Mix Index Report (FCIR) —Repealed.

Index Factor—Repealed.

Minimum Data Set (MDS)—Repealed.

MDS Supportive Documentation Guidelines—Repealed.

Pass-Through Cost Component—Repealed.

Preliminary Case Mix Index Report (PCIR) —Repealed.

Rate Year—Repealed.

Resident-Day-Weighted Median Cost—Repealed.

RUG-III Resident Classification System—Repealed.

Summary Review Results Letter—Repealed.

1. Repealed.

Supervised Automatic Sprinkler System—Repealed.

Two-Hour Rated Wall—Repealed.

Unsupported MDS Resident Assessment—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, 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 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), LR 41:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#073

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Outpatient Hospital Services
Public-Private Partnerships
Supplemental Payments
(LAC 50:V.Chapter 67)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 67 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 promulgated an Emergency Rule which amended the provisions governing outpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. The department promulgated an Emergency Rule which amended the provisions of the November 1, 2012 Emergency Rule to revise the reimbursement methodology in order to correct the federal citation (*Louisiana Register*, Volume 39, Number 3). This Emergency Rule continues the provisions of the March 2, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective October 26, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing supplemental Medicaid payments for outpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 67. Public-Private Partnerships

§6701. Qualifying Hospitals

A. Non-State Privately Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall provide supplemental Medicaid payments for outpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Non-State Publicly Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for outpatient hospital services rendered by non-state publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

C. Non-State Free-Standing Psychiatric Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for outpatient psychiatric hospital services rendered by non-state privately or publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately or publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured psychiatric hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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 41:

§6703. Reimbursement Methodology

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.321.

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 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#074

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Pharmacy Benefits Management Program
State Supplemental Rebate Agreement Program
(LAC 50:XXIX.Chapter 11)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XXIX.Chapter 11 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 provides Medicaid coverage of prescription drugs through its Pharmacy Benefits Management Program. The department amended the provisions governing the Pharmacy Benefits Management Program in order to establish provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement Program which is a multi-state Medicaid state supplemental drug rebate pooling initiative (*Louisiana Register*, Volume 39, Number 10). This program allows states to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates than could be achieved independently. It is anticipated that this program will lower the net cost of brand drugs and the overall dollars spent on pharmacy benefits. The department promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing the Pharmacy Benefits Management Program which established provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement Program (*Louisiana Register*, Volume 40, Number 3). This Emergency Rule is being promulgated to continue the provisions of the February 22, 2014 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective October 20, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Medicaid coverage of prescription drugs to establish provisions for participation in TOP\$ State Supplemental Rebate Agreement Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 11. State Supplemental Rebate Agreement Program

§1101. General Provisions

A. Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing hereby establishes provisions for participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement (SRA) Program. TOP\$ is a multi-state Medicaid state supplemental drug rebate pooling initiative approved by the

U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and administered by Provider Synergies, L.L.C/Magellan Medicaid Administration. The purpose of this program is to allow states the opportunity to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates and discounts from prescription drug companies than could be achieved independently.

B. Pursuant to R.S. 46:153.3, the department shall enter into a contractual agreement with Provider Synergies to participate in TOP\$. Provider Synergies/Magellan Medicaid Administration will act on the department's behalf to provide the necessary administration services relative to this agreement for the provision of state supplemental drug rebate contracting and preferred drug list administration 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, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#075

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Psychiatric Residential Treatment Facilities
Licensing Standards
(LAC 48:I.Chapter 90)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.Chapter 90 as authorized by R.S. 36:254 and R.S. 40:2009. 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 licensing of psychiatric residential treatment facilities (PRTFs) in order to revise the licensing standards as a means of assisting PRTFs to comply with the standards (*Louisiana Register*, Volume 39, Number 9). The department promulgated an Emergency Rule which amended the provisions governing the licensing standards for PRTFs in order to remove service barriers, clarify appeal opportunities, avoid a reduction in occupancy of PRTFs in rural locations, and clarify the process for cessation of business (*Louisiana Register*, Volume 40, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2014 Emergency Rule in

order to revise the formatting of these provisions to ensure that these provisions are appropriately promulgated in a clear and concise manner (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2015 Emergency Rule. This action is being taken to avoid imminent peril to the public health, safety and welfare of the children and adolescents who are in need of these services.

Effective November 17, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing of psychiatric residential treatment facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 90. Psychiatric Residential Treatment Facilities (under 21)

Subchapter A. General Provisions

§9003. Definitions

A. ...

* * *

Cessation of Business—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), LR 39:2510 (September 2013), LR 41:

Subchapter B. Licensing

§9015. Licensing Surveys

A. - D. ...

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

1. civil fines;
2. directed plans of correction;
3. provisional licensure;
4. denial of renewal; and/or
5. license revocations.

F. - F.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 41:

§9017. Changes in Licensee Information or Personnel

A. - D.2. ...

3. A PRTF that is under provisional licensure, license revocation or denial of license renewal may not undergo a CHOW.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 41:

§9019. Cessation of Business

A. Except as provided in §9089 of these licensing regulations, a license shall be immediately null and void if a PRTF ceases to operate.

1. - 3. Repealed.

B. A cessation of business is deemed to be effective the date on which the PRTF stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the PRTF shall:

1. give 30 days' advance written notice to:

- a. HSS;
- b. the prescribing physician; and
- c. the parent(s) or legal guardian or legal representative of each client; and

2. provide for an orderly discharge and transition of all of the clients in the facility.

F. In addition to the advance notice of voluntary closure, the PRTF shall submit a written plan for the disposition of clients' medical records for approval by the Department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's clients' medical records;
3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

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

H. Once the PRTF has ceased doing business, the PRTF shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 41:

§9023. Denial of License, Revocation of License, Denial of License Renewal

A. - C.3. ...

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

1. - 13. ...

14. bribery, harassment, or intimidation of any resident or family member designed to cause that resident or family member to use or retain the services of any particular PRTF; or

15. failure to maintain accreditation or failure to obtain accreditation.

16. Repealed.

E. If a PRTF license is revoked or renewal is denied, or the license is surrendered in lieu of an adverse action, any owner, officer, member, director, manager, or administrator of such PRTF may be prohibited from opening, managing, directing, operating, or owning another PRTF for a period of two years from the date of the final disposition of the revocation, denial action, or surrender.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:376 (February 2012), amended LR 41:

§9025. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License

A. - B. ...

1. The PRTF shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

2. - D. ...

E. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license revocation, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

E.1. - G.2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five days of receipt of the notice of the results of the follow-up survey from the department.

a. Repealed.

4. The provider shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

a. Repealed.

H. - H.1. ...

I. If a timely administrative appeal has been filed by a facility with a provisional initial license that has expired or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:377 (February 2012), amended LR 41:

§9027. Complaint Surveys

A. - J.1. ...

a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:378 (February 2012), amended LR 41:

§9029. Statement of Deficiencies

A. - C.1. ...

2. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:379 (February 2012), amended LR 41:

Subchapter H. Additional Requirements for Mental Health PRTFs

§9093. Personnel Qualifications, Responsibilities, and Requirements

A. - 2.a.iv. ...

b. The clinical director is responsible for the following:

i. providing clinical direction for each resident at a minimum of one hour per month, either in person on-site, or via telemedicine pursuant to R.S. 37:1261-1292, et seq. and LAC 46:XLV.408 and Chapter 75, et seq.;

(a). - 3.a.iv. ...

b. A LMHP or MHP shall provide for each resident a minimum weekly total of 120 minutes of individual therapy.

3.c. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:397 (February 2012), amended LR 39:2511 (September 2013), LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821, or by email to MedicaidPolicy@la.gov. Ms. Castello 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.

Kathy H. Kliebert
Secretary

1510#076

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Recovery Audit Contractor Program (LAC 50:I.Chapter 85)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:I.Chapter 85 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 Patient Protection and Affordable Care Act (PPACA), U.S. Public Law 111-148, and 111-152 directed states to establish a Recovery Audit Contractor (RAC) program to audit payments to Medicaid providers. Act 568 of the 2014 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to implement a Recovery Audit Contractor program. In compliance with the Patient Protection and Affordable Care Act (PPACA) and Act 568, the department promulgated an Emergency Rule which adopted provisions to establish the RAC program (*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective November 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions establishing the Recovery Audit Contractor program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 85. Recovery Audit Contractor

§8501. General Provisions

A. Pursuant to the provisions of the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, 111-152, and Act 562 of the Regular Session of the Louisiana Legislature, the Medicaid Program adopts provisions to establish a Recovery Audit Contractor (RAC) program.

B. These provisions do not prohibit or restrict any other audit functions that may be performed by the department or its contractors. This rule shall only apply to Medicaid RACs as they are defined in applicable federal law.

C. This Rule shall apply to RAC audits that begin on or after November 20, 2014, regardless of dates of claims reviewed.

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 41:

§8503. Definitions

Adverse Determination—any decision rendered by the recovery audit contractor that results in a payment to a provider for a claim or service being reduced either partially or completely.

Department—Department of Health and Hospitals (DHH) or any of its sections, bureaus, offices, or its contracted designee.

Provider—any healthcare entity enrolled with the department as a provider in the Medicaid program.

Recovery Audit Contractor (RAC)—a Medicaid recovery audit contractor selected by the department to perform audits for the purpose of ensuring Medicaid program integrity in accordance with the provisions of 42 CFR 455 et seq.

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 41:

§8505. Contractor Functions

A. Notwithstanding any law to the contrary, the RAC shall perform all of the following functions.

1. The RAC shall ensure it is reviewing claims within three years of the date of its initial payment. For purposes of this requirement, the three year look back period shall commence from the beginning date of the relevant audit.

2. The RAC shall send a determination letter concluding an audit within 60 days of receipt of all requested materials from a provider.

3. For any records which are requested from a provider, the RAC shall ensure proper identification of which records it is seeking. Information shall include, but is not limited to:

- a. recipient name;
- b. claim number;
- c. medical record number (if known); and
- d. date(s) of service.

B. Pursuant to applicable statute, the RAC program's scope of review shall exclude the following:

1. all claims processed or paid within 90 days of implementation of any Medicaid managed care program that relates to said claims. This shall not preclude review of claims not related to any Medicaid managed care program implementation;

2. claims processed or paid through a capitated Medicaid managed care program. This scope restriction shall not prohibit any audits of per member per month payments from the department to any capitated Medicaid managed care plan utilizing such claims; and

3. medical necessity reviews in which the provider has obtained prior authorization for the service.

C. The RAC shall refer claims it suspects to be fraudulent directly to the department for investigation.

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 41:

§8507. Reimbursement and Recoupment

A. The department has in place, and shall retain, a process to ensure that providers receive or retain the appropriate reimbursement amount for claims within any look back period in which the RAC determines that services delivered have been improperly billed, but reasonable and necessary. It shall be the provider's responsibility to provide documentation to support and justify any recalculation.

B. The RAC and the department shall not recoup any overpayments identified by the RAC until all informal and formal appeals processes have been completed. For purposes of this Section, a final decision by the Division of

Administrative Law shall be the conclusion of all formal appeals processes. This does not prohibit the provider from seeking judicial review and any remedies afforded thereunder.

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 41:

§8509. Provider Notification

A. The RAC shall provide a detailed explanation in writing to a provider for any adverse determination as defined by state statute. This notification shall include, but not be limited to the following:

1. the reason(s) for the adverse determination;
2. the specific medical criteria on which the determination was based, if applicable;
3. an explanation of any provider appeal rights; and
4. an explanation of the appropriate reimbursement determined in accordance with §8507, if 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 41:

§8511. Records Requests

A. The RAC shall limit records requests to not more than 1 percent of the number of claims filed by the provider for the specific service being reviewed in the previous state fiscal year during a 90 day period. The 1 percent shall be further limited to 200 records. For purposes of this Chapter, each specific service identified for review within the requested time period will be considered a separate and distinct audit.

B. The provider shall have 45 calendar days to comply with any records request unless an extension is mutually agreed upon. The 45 days shall begin on the date of receipt of any request.

1. *Date of Receipt*-two business days from the date of the request as confirmed by the post office date stamp.

C. If the RAC demonstrates a significant provider error rate relative to an audit of records, the RAC may make a request to the department to initiate an additional records request relative to the issue being reviewed for the purposes of further review and validation.

1. The provider shall be given an opportunity to provide written objections to the secretary or his/her designee of any subsequent records request. Decisions by the secretary or his/her designee in this area are final and not subject to further appeal or review.

2. This shall not be an adverse determination subject to the Administrative Procedures Act process.

3. A significant provider error rate shall be defined as 25 percent.

4. The RAC shall not make any requests allowed above until the time period for the informal appeals process has expired.

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 41:

§8513. Audits and Records Submission

A. The RAC shall utilize provider self-audits only if mutually agreed to by the provider and the RAC.

B. If the provider is determined to be a low-risk provider, the RAC shall schedule any on-site audits with advance notice of not less than 10 business days. The RAC shall make a reasonable good-faith effort to establish a mutually agreed upon date and time, and shall document such efforts.

C. In association with an audit, providers shall be allowed to submit records in electronic format for their convenience. If the RAC requires a provider to produce records in any non-electronic format, the RAC shall make reasonable efforts to reimburse the provider for the reasonable cost of medical records reproduction consistent with 42 CFR 476.78.

1. The cost for medical record production shall be at the current federal rate at the time of reimbursement to the provider. This rate may be updated periodically, but in no circumstance shall it exceed the rate applicable under Louisiana statutes for public records requests.

2. Any costs associated with medical record production may be applied by the RAC as a credit against any overpayment or as a reduction against any underpayment. A tender of this amount shall be deemed a reasonable effort.

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 41:

§8515. Appeals Process

A. A provider shall have a right to an informal and formal appeals process for adverse determinations made by the RAC.

B. The informal appeals process shall be conducted as follows.

1. Beginning on the date of issuance of any initial findings letter by the RAC, there shall be an informal discussion and consultation period. During this period the provider and RAC may communicate regarding any audit determinations.

2. Within 45 calendar days of receipt of written notification of an adverse determination from the RAC, a provider shall have the right to request an informal hearing relative to such determination. The department's Program Integrity Section shall be involved in this hearing. Any such request shall be in writing and the date of receipt shall be deemed to be two days after the date of the adverse determination letter.

3. The informal hearing shall occur within 30 days of receipt of the provider's request.

4. At the informal hearing the provider shall have the right to present information orally and in writing, the right to present documents, and the right to have the department and the RAC address any inquiry the provider may make concerning the reason for the adverse determination. A provider may be represented by an attorney or authorized representative, but any such individual must provide written

notice of representation along with the request for informal hearing.

5. The RAC and the Program Integrity Section shall issue a final written decision related to the informal hearing within 15 calendar days of the hearing closure.

C. Within 30 days of issuance of an adverse determination of the RAC, if an informal hearing is not requested or there is a determination pursuant to an informal hearing, a provider may request an administrative appeal of the final decision by requesting a hearing before the Division of Administrative Law. A copy of any request for an administrative appeal shall be filed contemporaneously with the Program Integrity Section. The date of issuance of a final decision or determination pursuant to an informal hearing shall be two days from the date of such decision or determination.

D. The department shall report on its website the number of adverse determinations overturned on informal or formal appeals at the end of the month for the previous month.

E. If the department or the Division of Administrative Law hearing officer finds that the RAC determination was unreasonable, frivolous or without merit, then the RAC shall reimburse the provider for its reasonable costs associated with the appeals process. Reasonable costs include, but are not limited to, cost of reasonable attorney's costs and other reasonable expenses incurred to appeal the RAC's determination. The fact that a decision has been overturned or partially overturned via the appeals process shall not mean the determination was without merit.

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 41:

§8517. Penalties and Sanctions

A. If the department determines that the RAC inappropriately denied a claim(s), the department may impose a penalty or sanction. A claim has been inappropriately denied when the:

1. adverse determination is not substantiated by applicable department policy or guidance and the RAC fails to utilize guidance provided by the department; or
2. RAC fails to follow any programmatic or statutory rules.

B. If more than 25 percent of the RAC's adverse determinations are overturned on informal or formal appeal, the department may impose a monetary penalty up to 10 percent of the cost of the claims to be awarded to the providers of the claims inappropriately determined, or a monetary penalty up to 5 percent of the RAC's total collections to 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 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy 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.

Kathy H. Kliebert
Secretary

1510#077

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office for Citizens with Developmental Disabilities

Certification of Medication Attendants (LAC 48:IX.915 and 917)

The Office for Citizens with Developmental Disabilities (OCDD) amends LAC 48:IX.Chapter 9, Guidelines for Certification of Medication Attendants (CMA). R.S. 37:1021-1025 authorizes the establishment of "a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for the developmental delayed (ICFs/DD) and community homes for the developmental delayed either operated by the Office for Citizens with Developmental Disabilities (OCDD) or funded through the Department of Health and Hospitals (DHH); and to individuals in programs/agencies contracting for services with DHH except as prohibited in §911.B.5."

Based on an opinion given by the Louisiana State Board of Medical Examiners, the Department of Health and Hospitals has discontinued the use of physician delegation forms in intermediate care facilities and home and community-based settings. Unlicensed personnel must now complete minimum training requirements in order to administer medication to individuals with intellectual and developmental disabilities. The termination of physician delegation has resulted in a large influx of individuals seeking CMA training and certification. This has created an administrative burden to providers as well as OCDD to timely process a steadily increasing number of certifications. This is also an unfunded training mandate, which incurs significant costs to provider agencies and requires annual continuing education for re-certification. Due to limited funding, provider agencies who cannot afford to maintain the certification will experience a reduction in unlicensed personnel who are qualified to give medication to clients, thus increasing the risk for medication errors, critical incidents, and mortality for medically compromised and vulnerable clients. The Office for Citizens with Developmental Disabilities, seeks to extend the certification period for Certified Medication Attendants to two years effective October 23, 2015. Provider agencies must determine CMA competency annually during the two year period.

Also effective October 23, 2015, OCDD will allow CMAs who have not worked directly with medication administration for 12 months or more to be administered the statewide exam and a competency evaluation rather than requiring that they repeat the training. The opportunity for

this will also decrease administrative burden and allow qualified individuals to more quickly re-enter the work force which will in turn, help assure client health and safety. 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.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Mental Retardation/Developmental Services

Chapter 9. Guidelines for Certification of Medication Attendants

§915. Certification Requirements and Process

A. CMA certificates issued after rule promulgation will expire two years from the last day of the month that the certificate was printed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), amended LR 23:1147 (September 1997), LR 41:

§917. Re-Certification Requirements and Process

A. Bi-Annual Requirements. On a bi-annual basis each CMA must be recertified. The requirements for re-certification are:

1. completion of a total of nine hours of in-service training. Two of the nine hours must directly relate to the agency's medication administration policy and procedure. The remaining seven hours on in-service must relate to medication administration. A CMA working in multiple agencies may combine training to meet these requirements with the exception that the two hour training on agency medication administration policy and procedure is required for each employer. Each agency must have documentation of each CMA's required nine hours of in-service training;

2. pass with proficiency, either by physical or verbal demonstration, the 25 skills on the practical checklist on an annual basis. The annual cycle is based on the last day of the month that the certificate was printed. If a CMA changes employers within the certification period and training records are not available for the first year, the new employer must determine competency by assessing the 25 skills upon hire, in addition to meeting these requirements for re-certification.

B. - C. ...

D. The re-certification requirements must be met prior to the month of expiration of the CMA's certification.

E. A CMA who has not worked directly with medication administration in a facility, program, or agency for the intellectually/developmentally disabled for 12 months or more must take the OCDD CMA state exam again and pass with proficiency the 25 skills checklist. If the CMA does not pass the state exam, then the CMA must repeat the 60-hour course and pass the exam prior to being recertified. Failure to pass the state exam will result in de-certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 23:1147 (September 1997), LR 41:

§919. De-Certification of Medication Attendants

A. ...

B. De-certification may occur under the following conditions:

1. failure of CMA to obtain re-certification requirements. The CMA may be reinstated if the re-certification requirements are met within six months of expiration of the certificate. During this six-month period the CMA's authorized functions shall be suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 41:

§925. Provider Responsibility

A. -A.2. ...

3. documentation of annual successful completion of the 25 skills checklist and bi-annual completion of continuing education necessary for re-certification of CMA.

B. The provider is legally responsible for the level of competency of its personnel and for ensuring that unlicensed staff administering medication have successfully completed the medication administration course curriculum. Additionally, the provider is responsible for maintaining re-certification requirements of their CMA's and that their CMA's perform their functions in a safe manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:699 (July 1995), amended LR 41:

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 Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. He is responsible for responding to inquiries regarding this proposed Rule.

Kathy H. Kliebert
Secretary

1510#021

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2015-2016 Duck Season Dates

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The hunting season for ducks, coots and geese during the 2015-2016 hunting season shall be as follows:

Ducks And Coots: 60 days

Coastal Zone: November 7-December 6
December 19-January 17

West Zone: November 14-December 6
December 19-January 24

East Zone: November 21-December 6
(Including December 19-January 31, Catahoula Lake)

Youth Waterfowl Weekend: October 31 and November 1 in the coastal zone, Nov. 7 and Jan. 30 in the west zone, November 14 and Feb. 6 in east zone.

Daily Bag Limits: The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 2 canvasback, 1 mottled duck, 1 black duck, 3 wood ducks, 3 scaup, 2 redheads, and 2 pintails.

Daily bag limit on coots is 15.

Mergansers: The daily bag limit for mergansers is 5, only 2 of which may be hooded mergansers. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit: The possession limit on ducks, coots and mergansers is three times the daily bag limit.

Geese:

Light Geese (Snow, Blue and Ross') and White-Fronted Geese

Coastal Zone: November 7-December 6
(81 days) December 19-February 7

West Zone: November 7-December 6
(81 days) December 19-February 7

East Zone: November 7-December 6
(81 days) December 19-February 7

Daily bag limit on light geese (snow, blue and Ross'): 20

Possession limit on light geese (snow, blue and Ross'):

None

Daily Limit on white-fronted geese: 2

Possession Limit on white-fronted geese: 6

Canada Geese: Closed in the Area Described Below

Coastal Zone: November 7-December 6
(74 days) December 19-January 31

West Zone: November 14-December 6
(67 days) December 19-January 31

East Zone: November 7-December 6
(74 days) December 19-January 31

Daily Limit on Canada geese: 1 per day

Possession limit on Canada geese: 3

The Canada goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: Beginning at the Texas state line, proceeding east along Hwy. 82 to the Calcasieu ship channel, then north along the Calcasieu ship channel to its junction with the intracoastal canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas state line, then north to the point of beginning at LA

Hwy. 82. Open waters of Lake Arthur and the Mermentau River, from the Hwy 14 bridge southward, will also be closed to Canada goose hunting.

Conservation Order for Light Geese (Snow, Blue and Ross's):

Coastal Zone: December 7-December 18
February 8-March 6

West Zone: December 7-December 18
February 8-March 6

East Zone: December 7-December 18
February 8-March 6

Only snow, blue and Ross's geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begins one-half hour before sunrise and extends until one-half hour after sunset.

Rails: November 7-December 30

King and Clapper: Daily bag limit 15 in the aggregate, possession 45.

Sora and Virginia: Daily bag 25 in the aggregate and possession 75.

Gallinules: November 7-December 30

Daily bag limit 15, Possession limit 45

Snipe:

Coastal Zone: November 2-December 6
December 19-February 28

West Zone: November 2-December 6
December 19-February 28

East Zone: November 2-December 6
December 19-February 28

Daily bag limit 8, Possession limit 24

Shooting Hours: one-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

Extended Falconry Seasons for Rails and Gallinules:

Statewide: November 4-January 31

(16 days of the total season lengths for rails, gallinules and extended falconry seasons were used during the September teal season.)

Extended Falconry Seasons for Ducks:

Coastal Zone: November 4-January 31

West Zone: November 4-January 31

East Zone: November 4-January 31

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2015 and extend through one-half hour after sunset on March 1, 2016.

Pat Manuel
Chairman

1510#019

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Sacking-Only Expansion in Mississippi Sound Area

In accordance with the emergency provisions of Louisiana Revised Statute (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency, effective September 21, 2015, passed by the Wildlife and Fisheries Commission on September 3, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action to adjust sacking-only areas if necessary, notice is hereby given that the secretary of Wildlife and Fisheries hereby adjusts the “sacking-only” area in Mississippi Sound (St. Bernard Parish), which shall open at one-half hour before sunrise on Monday, October 19, 2015, as follows.

The “sacking-only” area in Mississippi Sound shall include that portion of the Louisiana Department of Health and Hospitals’ (LDHH) harvest area 1 falling east of a line of longitude at 89 degrees 29 minutes 0.00 seconds W, and the entirety of the LDHH harvest area 2.

The “sacking-only” area in Mississippi Sound was originally declared to encompass only LDHH harvest area 2, but is hereby being expanded as described above. An additional “sacking-only” area in the Bay Long and American Bay area as described in the Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2015 shall remain unchanged.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Robert J. Barham
Secretary

1510#005

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Horticulture Commission

Examination Fees (LAC 7:XXIX.109)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry (“department”) has amended its rules regarding examination fees for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist. R.S. 3:3806(A)(1) provides that the “examination fee for each examination for a professional license, except for landscape architects, shall be established by the commission by rule in an amount not to exceed \$350. In determining the amount of the fee, the commission shall consider the costs incurred in obtaining, administering, and grading the examination.” The prior fee for examination or re-examination for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist was \$50. However, the actual cost incurred by the department in obtaining, administering, and grading the examination is \$114. The amended Rule increases the fee for the examination to an amount commensurate with the cost thereof.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§109. Examination Fees

A. - A.2. ...

B. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Retail Florist, Utility Arborist, Wholesale Florist

1. The fee for examination or re-examination for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist shall be \$114.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3806, R.S. 3:3805, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:2297 (November 2003), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3464 (December 2011), LR 40:758 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 41:2098 (October 2015).

Mike Strain, DMV
Commissioner

1510#043

RULE

Department of Agriculture and Forestry Office of Agro-Consumer Services Division of Weights and Measures

Weights and Measures; Petroleum Products (LAC 7:XXXV.109, 127, 301, 321, 327 and 347)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry (“department”), through the Office of Agro-Consumer Services, Division of Weights and Measures, has amended LAC 7:XXXV.109, 127, 301, 321, 327 and 347. LAC 7:XXXV.109 now includes a “minisack” as an additional unit of measurement for unshucked oysters. LAC 7:XXXV.127 now clarifies the process for registration and inspection of taxicab meters. LAC 7:XXXV.301, 321 and 327 include biomass-based diesel and biomass-based diesel blend fuel within the regulations on petroleum products and also set forth certain labeling requirements for biomass-based diesel. LAC 7:XXXV.347 now clarifies the possible methods of disposition of nonconforming fuel and requires the responsible party to notify the department regarding whether the nonconforming product was disposed of, re-refined, or blended for resale.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§109. Oysters—Method of Sale

A. Oysters Unshucked. The standards used for unshucked oysters are a barrel containing 3 bushels, a sack containing 1 1/2 bushels or a 1 1/2 bushel wire hamper containing 3225.63 cubic inches or a minisack containing 1/2 bushel or 1/2 bushel wire hamper containing 1075.21 cubic inches.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4631, R.S. 3:4613 and R.S. 3:4608 (formerly R.S. 55:72, R.S. 55:11 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended April 1972, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1532 (December 1993), LR 41:2098 (October 2015).

§127. Registration

A. - H. ...

I. Each application for annual registration shall be accompanied by payment of the required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. This Subsection shall not apply to the registration of taxicab meters.

J. Taxicab meters shall be registered annually with the division. Each registration shall be valid for one year from the date of issuance. Taxi meters may only be registered with the division upon completion of an inspection of the taxi meter by the department and payment of the required registration fee. The inspection period for taxicab meters for registration purposes shall occur from January 1 through June 30 each year. After June 30, inspections for registration purposes will be done by appointment only.

1. If a taxicab operates in a municipality or parish which requires a local inspection, the inspection required under this Part shall be completed no later than the month in which the taxicab's parish, municipal, or airport inspection is due.

2. Taxicab meters inspected after June 30 will be charged a late fee of \$25 unless the late inspection is due to a meter being new, repaired, replaced, or being placed in a different vehicle.

K. Any registration obtained without complying with all of the requirements of these regulations may be voided by the division.

L. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

M. In accordance with R.S. 3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

N. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection L of this Section.

O. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at the last address provided by the registrant, on or before November 15 and must be returned before January 1.

P. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

NOTE. Repealed.

Q. Any registrant having a device registered under provisions of this regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the commission's office in writing to remove said device from its records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3), 3:4607, 4608, and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:857 (July 1997), LR 41:2098 (October 2015).

Chapter 3. Petroleum Products

Subchapter A. Standards

§301. Definitions

A. As used in this Subchapter, the terms defined in this Section have the meanings herein given to them, except where the context expressly indicates otherwise.

Biodiesel Blend—a blend of diesel fuel and biodiesel suitable for use as a fuel in compression ignition engines.

Biomass-Based Diesel—a non-ester renewable diesel fuel produced from non-petroleum renewable resources, including biomass, plant oils, animal fats, microbial oils, and agricultural or municipal wastes, that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under 42 U.S.C. 7545 and conforms to the most recent revision of the appropriate ASTM specification. It is a renewable fuel that has lifecycle greenhouse gas emissions that are at least 50 percent less than the baseline lifecycle greenhouse gas emissions, is registered as a motor vehicle fuel under 40 CFR 79, and is either a transportation fuel (ASTM D975), heating oil (ASTM D396), or jet fuel (ASTM D1655).

Biomass-Based Diesel Blend—a blend of diesel fuel and biomass-based diesel that conforms to ASTM D975 and is suitable for use as a fuel in compression ignition engines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:28 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2548 (December 2008), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 41:2099 (October 2015).

§321. Classification and Method of Sale of Petroleum Products

A. When gasoline, gasoline-oxygenate blends, reformulated gasoline, M85 and M100 fuel methanol, E85 and E100 fuel ethanol, biodiesel, biomass-based diesel, biomass-based diesel blend, diesel fuel, kerosene, aviation gasoline, aviation turbine fuels, or fuel oils are sold, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery other than a retail sale. This documentation must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating, oxygenate type and content (if applicable), the name and address of the seller and buyer, and the date and time of the sale. This documentation must be retained at the retail establishment for a period not less than one year. The sale of any product under any grade name that indicates to the purchaser that it is of a certain Antiknock Index or ASTM grade shall not be permitted unless the Antiknock Index or ASTM grade indicated in the grade name is consistent with the value and meets the requirements of this Subchapter.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:31 (January 2005), amended LR 41:2099 (October 2015).

§327. Biodiesel and Biomass-Based Diesel

A. A biodiesel or biomass-based diesel blend containing more than 5 percent of a biodiesel or biomass-based diesel by volume shall be identified by the term "biodiesel blend" or "biomass-based diesel blend." A blend containing 5 percent or less of a biodiesel or biomass-based diesel by volume shall not be required to be identified by the term "biodiesel blend" or "biomass-based diesel blend."

B. Each dispenser of biodiesel or biomass-based diesel blends containing more than 5 percent but no more than 20 percent of a biodiesel or biomass-based diesel shall be labeled with either the capital letter B (biodiesel) or BBD (biomass-based diesel) followed by the numerical value representing the volume percentage of biodiesel or biomass-based diesel fuel and ending with "biodiesel blend" or "biomass-based diesel blend" (i.e., B10 biodiesel blend; B20 biodiesel blend, BBD20 biomass-based diesel blend), or the phrase "biodiesel blend between 5 percent and 20 percent" or "biomass-based diesel blend between 5 percent and 20 percent" or similar words.

1. Each label shall be located on the upper 50 percent of the dispenser's front panel in a position clear and conspicuous from the driver's position.

2. The size, color and lettering shall conform to the requirements of 16 CFR 306.12. Biodiesel uses blue letters in the black band at the top and black letters in a blue background at the bottom. Biomass-based diesel uses orange letters in the black band at the top and black letters in an orange background on the bottom.

3. For blends that contain more than 20 percent biodiesel or biomass-based diesel, the label must state the blend percentage and follow the color scheme above.

C. The distributor of a biodiesel or biomass-based diesel blended fuel that contains more than 5 percent of a biodiesel or biomass-based diesel by volume shall, at the time of delivery, provide the retailer with a written statement, whether on an invoice, bill of lading, or shipping paper, or other document, of the volume by percent of biodiesel or biomass-based diesel in the fuel. The retailer shall keep this information as part of his records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 41:2100 (October 2015).

§347. Nonconforming Product

A. - B. ...

C. When the commissioner or his designee issues a written order to stop the offering for sale, sale, or distribution of a particular product which is maintained at a terminal or bulk plant facility, the terminal or bulk storage plant shall immediately notify all customers that received those product(s) and make any arrangements necessary to

replace or adjust to specifications those product(s). The terminal or bulk storage plant shall also immediately notify the commissioner of those customers, their business locations, and the quantity of product delivered to each location.

D. Once a stop sale order has been issued on a product, whether on the rack, in transport, or in retail, the disposition of the nonconforming product shall be communicated to the commissioner on a form provided by the department. The responsible party and driver shall both sign the form. For purposes of this Subsection, the responsible party shall be the distributor if the condemned product is on the rack or in transport and shall be the station owner or his designee if the condemned product is in retail. The responsible party will contact the department inspector to retrieve the signed form during normal business hours. A release from a stop-sale order will be issued only after the commissioner or his designee has agreed upon final disposition of the product. Confirmation of disposition of products shall be made available in writing to the commissioner. Specific variations or exemptions may be made for fuels used for blending purposes or designed for special equipment or services and for which it can be demonstrated that the distribution will be restricted to those uses.

E. The following methods are approved for non-conforming products:

1. the nonconforming product may be returned to the refinery for re-refining;

2. the nonconforming product may be disposed of by environmentally acceptable means; or

3. the nonconforming product may be blended out to remove the contaminating substances in an effort to make the product conform to specification. The blended product shall not be offered for sale again until tested and approved by the department.

F. The commissioner or his designee may placard or seal any pump, dispenser, tank or container which contains a nonconforming product or which would dispense a petroleum product that does not conform to the appropriate specification in this Subchapter. No person shall deface, remove, or obscure any placard or seal posted or placed by the commissioner or his designee or act in any manner so as to interfere with or obstruct the commissioner or his designee in the discharge of his duties under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 41:2100 (October 2015).

Mike Strain, DVM
Commissioner

1510#044

RULE

Department of Agriculture and Forestry Office of Forestry

Stumpage; Seedlings; Indian Creek Recreation Area;
Landowner Assistance; Reforestation
(LAC 7:XXXIX.101, 105, 107, 301,
501, 701, 1001, 1307, and 1321)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry (“department”), through the Office of Forestry, has amended LAC 7:XXXIX.101, 105, 107, 501, 701, 1001, 1307, and 1321 and repealed Section 301. Sections 101, 105, and 107 have been amended in response to Act No. 185 of the 2013 Regular Session of the Louisiana Legislature (“Act 185”). Act 195 amended R.S. 47:633 and now provides that the Louisiana Tax Commission may assist the Louisiana Forestry Commission in determining the average stumpage market value of timber and repeals the portion of the law that required the two commissions to set the value jointly. Act 195 also changed the meeting date from the “second Monday in December” to simply “in December.” This change is also reflected in the amendments to Sections 101 and 105. Section 301 was repealed because the department is no longer going to own tree seedling nurseries. The amendments to Section 501 were intended to bring the prices charged at the Indian Creek recreation area in line with those charged by other state parks in Louisiana. The amendments to Section 701 established a distinction between two sizes of dozer equipment used in forest landowner assistance. Section 1001 was amended to correct a typographical error. Section 1307 was amended to increase the maximum cost share amount available to a landowner. This will result in more efficient use of timber management practices. The amendments also change the coding system used internally to administer the Forest Productivity Program. Section 1321 was amended to use “may” instead of “shall.” The law, R.S. 3:4416, does not require a portion of monies be set aside each year; therefore, the use of “may” is appropriate.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 1. Timber Stumpage

§101. Authority

A. The Louisiana Forestry Commission and the Louisiana Tax Commission adopt these regulations under the authority of R.S. 3:4274 and R.S. 47:1837 for the purpose of implementing the provisions of R.S. 47:633, which requires the Louisiana Forestry Commission determine the current average stumpage market value of trees and timber and of pulpwood; which valuation becomes effective, by law, on the first day of January of the following year and continuing until the next succeeding January.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended

by the Department of Agriculture and Forestry, Office of Forestry and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), repromulgated LR 21:1069 (October 1995), amended by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997), LR 24:1081 (June 1998), LR 24:2075 (November 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 41:2101 (October 2015).

§105. Notice

A. The Office of Forestry shall annually publish in the November issue of the *Louisiana Register* a notice of the date, time and place of the meeting of the Louisiana Forestry Commission required by law to be held in December together with the recommendations of the Office of Forestry and the data used to determine such recommendations.

B. The Office of Forestry upon completion of its recommendations, shall send a copy of its recommendations and the data used as the basis for the recommendations to all interested parties who have requested a copy of the recommendation.

C. Notice of the commission’s determination of the current average stumpage market value of trees, timber and pulpwood shall be immediately sent to all interested parties who have requested notice or who are required by law to receive notice and shall be published in the Potpourri section of the next available edition of the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 41:2101 (October 2015).

§107. Annual Determination of Current Average Stumpage Market Value

A. At the annual meeting held by the commission to determine the current average stumpage market value of timber and pulpwood the commission may determine the stumpage market value based on the sales of timber as reported to the Louisiana Department of Revenue and as published in the *Quarterly Report of Forest Products* by the Louisiana Department of Agriculture and Forestry, and may also give consideration given to current published market prices. All comments and input submitted by interested parties at this meeting shall be considered by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274, R.S. 47:1837 and R.S.47:633 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 41:2101 (October 2015).

Chapter 3. Tree Seedlings

§301. Seedling Prices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:468 (June 1984), amended by

the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July 1995), LR 22:1210 (December 1996), LR 26:2437 (November 2000), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 30:200 (February 2004), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 37:2986 (October 2011), repealed by the Department of Agriculture and Forestry, Office of Forestry, LR 41:2101 (October 2015).

Chapter 5. Indian Creek Recreation Area

§501. Usage Fees

A. The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions:

1. entrance fee (day use)—\$7 per vehicle with up to six occupants. additional \$2.00 per person for additional occupants;
2. regular campsite—\$22/day;
3. water front campsite—\$28/day;
4. pull-through campsite—\$22 ea or \$42 all day;
5. pull-through water front—\$28 ea or \$54 all day;
6. primitive campsite—\$14/tent/day;
7. pavilion rental—\$100/day; \$50 deposit required;
8. boat launch—\$7/boat;
9. 30-day off-season rate for (Oct.-Feb. only):
 - a. regular campsite—\$270/month;
 - b. water front—\$375/month;
10. 30-day off-season rate for pull-through campsite (Oct.-Feb. only)—\$270/month.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 6:734 (December 1980), amended LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17:476 (May 1991), LR 23:553 (May 1997), LR 30:195 (February 2004), LR 41:2102 (October 2015).

Chapter 7. Forest Landowner Assistance

§701. Management Service Fees

A. The Department of Agriculture and Forestry, Office of Forestry, shall, under the direction of the state forester, provide private landowners with assistance in the management of their forestlands.

1. Basic Services (\$300 minimum charge)—performed on an as-requested basis in all Office of Forestry districts:
 - a. prescribed burning services:
 - i. reforestation (cutover areas):
 - (a). \$25/acre plus fireline establishment: \$70/hour for light tractor (dozer) work-650 John Deere (or other brand of similar power) or less;
 - (b). \$100/hour for heavy tractor (dozer) work-750 John Deere (or other brand of similar power);
 - ii. afforestation (pasture, etc.):
 - (a). \$15/acre plus fireline establishment: \$70/hour for light tractor (dozer) work-650 John Deere (or other brand of similar power) or less;
 - (b). \$100/hour for heavy tractor (dozer)work-750 John Deere (or other brand of similar power);
 - iii. prescribed burns (fuel reduction, hardwood control, wildlife habitat, etc.):

- (a). \$20/acre plus fireline establishment: \$70/hour for light tractor (dozer) work-650 John Deere (or other brand of similar power) or less;

- (b). \$100/hour for heavy tractor (dozer) work-750 John Deere (or other brand of similar power);

- iv. onsite prescribed burn standby:

- (a). \$10/acre plus fireline establishment: \$70/hour for light tractor (dozer) work-650 John Deere (or other brand of similar power) or less;

- (b). \$100/hour for heavy tractor (dozer) work – 750 John Deere (or other brand of similar power);

- v. fireline establishment only:

- (a). \$70/hour for light tractor (dozer) work-650 John Deere (or other brand of similar power) or less;

- (b). \$100/hour for heavy tractor (dozer)work-750 John Deere (or other brand of similar power).

2. Special Services—performed when approved on a case-by-case basis:

- a. tree planting (seedlings or seed not included)—\$46/acre;

- b. direct seeding (seedlings or seed not included)—\$10/acre;

- c. light tractor (dozer) work [650 John Deere (or other brand of equal power) or less]—\$70/hour (\$300 minimum);

- d. heavy tractor (dozer) work [over 650 John Deere or other brand of equal power]—\$100/hour (\$300 minimum);

- e. timber marking—\$25/acre (only available on 40 acres or less).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4276, R.S. 3:4274 and R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, LR 8:419 (August 1982), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 11:1178 (December 1985), LR 19:1414 (November 1993), LR 23:553 (May 1997), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 32:1782 (October 2006), LR 41:2102 (October 2015).

Chapter 10. Reforestation of Public Lands

§1001. Scope; Agencies Involved

A. Any state agency, department, board or commission, desiring to cut down or remove any tree or trees 10" diameter-breast-height or larger must first submit a request for approval to the Louisiana Department of Agriculture and Forestry, Office of Forestry, Box 1628, Baton Rouge, LA 70821-1628, addressed to the attention of the state forester.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992), amended LR 41:2102 (October 2015).

Chapter 13. Forestry Productivity Program

§1307. Extent of State Participation

A. Financial assistance by the state to any one landowner participating in this program shall be limited to a total value of \$15,000 during a fiscal year.

B. - C. ...

D. The maximum cost share rates are established as follows.

RULE

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.103, 305, 507, 701, 703, 903, 1105, 1111, 1301, 1303, 1307, 1511, 1515, 1703, 1707, 1713, 1721, 1903, 1907, and 1921)

The Board of Elementary and Secondary Education (BESE), in accordance with R.S. 49:953 et seq., the Administrative Procedure Act, and R.S. 17.6, has amended LAC 28:CLX, *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

Title 28

EDUCATION

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 1. General Provisions

§103. Definitions

* * *

Criminal Background Check (CBC)—a certified copy of the personal criminal history information record for owners, applicants for employment, staff, volunteers, visitors, and independent contractors who will be performing services at an early learning center. A CBC is obtained by the early learning center from the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 17:407.42.

* * *

Direct Supervision—see *supervision*.

* * *

Independent Contractors—individuals who are not employees of the center, but who render professional, therapeutic, or enrichment services within an early learning center. Independent contractors include, but are not limited to, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, nutritionists, early interventionists, nurses and other licensed health care professionals, local school district staff, Department of Education staff, contracted bus drivers, cafeteria and maintenance personnel, electricians, plumbers and photographers, and other outside contractors.

* * *

Non-Vehicular Excursion—any activity that takes place outside of the licensed area that is within a safe, reasonable, walking distance, and that does not require transportation in a motor vehicle. This does not include walking with children to and from schools.

* * *

Right to Review (RTR)—a certified copy of an individual’s personal criminal history information record obtained by the individual from the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 15:588.

* * *

Supervision—the function of observing, overseeing, and guiding a child or group of children, that includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed. Supervision

Maximum Cost-Share Rates 50 Percent of the Cost per Acre Not to Exceed the Following Rates		
FPP1	Artificial Regeneration Component	
Code	Tree Planting	Maximum C/S Rate
01.1	Pine (loblolly or slash, planting and seedling cost)	\$50/acre
01.5	Containerized Pine (loblolly or slash, planting and seedling cost)	\$60/acre
02.1	Hardwood (planting and seedling cost)	\$90/acre
02.5	Containerized Hardwood (planting and seedling cost)	\$110/acre
03.1	Labor Only (pine or hardwood)	\$25/acre
03.5	Labor only (containerized pine or hardwood)	\$35/acre
04.1	Longleaf Pine (planting and seedling cost)	\$60/acre
04.5	Containerized Longleaf Pine (planting and seedling cost)	\$80/acre
Direct Seeding		
05.1	Pine (seed and labor cost)	\$15/acre
06.1	Hardwood (seed and labor cost)	\$30/acre
Site Preparation		
11.1	Light (discing, mowing, or sub-soiling)	\$15/acre
12.1	Burn Only (cut-over areas or agricultural lands)	\$20/acre
13.1	Chemical and Burn (aerial, ground, or injection)	\$75/acre
14.1	Mechanical and Burn	\$115/acre
15.1	Post-site Preparation (aerial, ground, or injection)	\$50/acre
16.1	Chemical and Herschal	\$90/acre
FPP2 Site Preparation for Natural Regeneration		
21.1	Burning Only	\$15/acre
22.1	Chemical or Mechanical	\$65/acre
23.1	Chemical and Burning	\$75/acre
FPP3 Control of Competing Vegetation		
31.1	Chemical Release (aerial, ground, or injection)	\$50/acre
32.2	Precommercial Thinning (mechanical)	\$65/acre
33.2	Burning Only	\$15/acre

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 34:2338 (November 2008), LR 41:2102 (October 2015).

§1321. Competitive Research and Cooperative Extension Grants

A. ...

B. Each fiscal year the commissioner may set aside a portion of the monies in the fund to be used for competitive grants.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4416.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1681 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 41:2103 (October 2015).

Mike Strain, DVM
Commissioner

1510#042

requires physical presence with visual contact, accountability for care of the children, knowledge of activity requirements, and knowledge of the abilities and needs of the children.

* * *

Therapeutic Professionals—independent contractors who provide therapeutic services in an early learning center, including but not limited to speech therapists, nutritionists, early interventionists, nurses and other licensed health care professionals who are employed by a local school district or the Department of Health and Hospitals (DHH) or who are working pursuant to an EarlySteps contract with DHH, to provide therapeutic services in an early learning center to a child with a disability that has an active individual education plan (IEP) or individual family service plan (IFSP). Therapeutic professionals are not required to be under the supervision of center staff when providing such services.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015).

Chapter 3. Licensure

§305. Operating Without a License; Registry; Penalties

A. Whoever operates any early learning center without a valid license shall be fined by the Licensing Division not less than \$1,000 per day for each day of such offense.

B. If an early learning center is operating without a valid license, the Licensing Division shall file suit for injunctive relief in the district court in the parish in which the center is located to enjoin the owner or operator from continuing the violation.

C. Upon receipt of a court order enjoining an individual from operating an early learning center without a valid, current early learning center license, the department shall notify local law enforcement, the local superintendent, and the early childhood community network lead agency, if different, in the parish in which the unlicensed care was provided, and in the parish in which the individual resides, if known and different from the parish in which the unlicensed care was provided, of the existence of such a court order.

D. The department shall publish on its website in a statewide registry the names of individuals that have an existing court order prohibiting them from operating an early learning center without a current, valid early learning center license and that do not currently operate a center with a current valid license. The registry shall at a minimum include the name of the individual, the name of the center under which the unlicensed care was provided, and the parish in which the unlicensed care was provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.37.

HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015).

Chapter 5. Ownership of Early Learning Centers

§507. Criminal Background Checks for Owners

A. All owners of an early learning center shall provide the center documentation of a satisfactory fingerprint-based *right to review (RTR)*, as defined in §103, obtained from the Louisiana Bureau of Criminal Identification and Information

(bureau) or provide the center with the information, signatures and fingerprints necessary for the center to obtain documentation of a fingerprint based criminal background check (CBC) from the bureau. A copy of an RTR or a CBC shall be submitted for each owner with an initial application for licensure and the center shall have copies of said documentation on-site at all times and available for inspection upon request by the Licensing Division.

1. CBC from Bureau. An early learning center may request a CBC from the bureau for any owner by submitting a request to the bureau that shall be made on a form prepared by the bureau, signed by a responsible officer or official of the center, and include a statement signed by the person about whom the request is being made giving permission for such information to be released and the person's fingerprints in a form acceptable to the bureau.

2. RTR from Bureau. An owner of a center may provide an RTR obtained from the bureau to the center, and it shall be accepted for a period of one year from the date of issuance by the bureau. Prior to the one year expiration of an owner-provided RTR, a new satisfactory fingerprint based CBC shall be obtained by the center or the person is no longer eligible to own, operate, or participate in the governance of the center.

3. ...

B. New members and owners that are to be added to a partnership, church, corporation, limited liability company or governmental entity, even if such change does not constitute a change in ownership for licensing purposes, shall provide the center with documentation of a satisfactory RTR or the information, signatures and fingerprints necessary for the center to obtain a CBC in the same manner as original owners and members.

C. A CBC or RTR is satisfactory for purposes of this Bulletin if it shows no arrests for any offense, enumerated in R.S. 15:587.1(C) or §505.B of this bulletin or if an arrest is shown on the CBC or RTR for any enumerated offense, the CBC or RTR or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction.

D. If a CBC or RTR shows that any owner, operator or other participant in the governance of the center has been convicted of or pled guilty or nolo contendere of any enumerated offense under R.S. 15:587.1(C), or those crimes of fraud listed in §505.B, the center, upon receipt of the result, shall submit the information to the Licensing Division within 24 hours or no later than the next business day, whichever is sooner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:621 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015).

Chapter 7. Licensing Process and Procedures

§701. Initial Application Process

A. - C. ...

D. Review of Licensing Packet

1. If a submitted application is incomplete, the Licensing Division shall notify the applicant of the missing information.

a. The applicant shall have 21 calendar days from receipt of notification to submit the additional information.

b. If the Licensing Division does not receive the additional information within 21 calendar days of notification, the application shall be closed and the application fee shall be forfeited.

c. Once an application has been closed, an applicant still interested in obtaining a license must submit a new application and application fee.

D.2. - E.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015).

§703. Initial Inspection Process

A. - A.2. ...

3. If an initial inspection indicates that an early learning center is not in compliance with all minimum standards, with the exception of the standards listed in Paragraph A.4 of this Section, the Licensing Division may deny the application.

4. If the initial inspection indicates that a center is in compliance with all but the following standards, the center will be allowed 90 calendar days from receipt of the initial completed application to submit documentation of compliance with the following, and the application may be denied if the information is not received within the 90 calendar days:

- a. Office of State Fire Marshal approval;
- b. city fire approval, if applicable;
- c. Office of Public Health approval;
- d. Office of Early Childhood approval, if type III center;
- e. documentation of a satisfactory fingerprint based criminal background check for all staff not previously provided; and
- f. documentation of a completed state central registry disclosure form noting indicating no justified (valid) finding of abuse and/or neglect of a child or a finding from DCFS that the person does not pose a risk to children for all staff not previously provided.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015).

Chapter 9. Changes Requiring a New License

§903. Change of Ownership

A. - B. ...

C. Any of the following constitute a change of ownership:

1. change in federal tax ID number;
2. change in state tax ID number;
3. change in profit status;
4. any transfer of partial or full ownership of the center from an individual or juridical entity to any other individual or juridical entity;
5. termination of child care services by one owner and beginning of services by a different owner without a break in services to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015).

Chapter 11. Operating Violations and Incidents; Fines; Appeals

§1105. Identified Violations and Fines

A. For violations related to the following licensing standards, when such violation does not pose an imminent threat to the health, safety, rights, or welfare of a child, the Licensing Division may issue a written warning in lieu of revoking or refusing to renew the license:

A.1. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015).

§1111. Payment of Fines

A. Fines for violations of licensing standards listed in §1105.A are due within 30 calendar days of receipt of written notice of assessment of fines, unless the center timely submits a request for departmental reconsideration.

B. ...

C. If the department timely receives a request for an administrative appeal for an assessment of fines based on a violation of the licensing standards listed in §1105.A and said assessment is affirmed by the DAL, the fine shall be due and payable within 30 calendar days of receipt of notice of the decision by the DAL, unless the center timely seeks judicial review of the administrative decision.

D. ...

E. If a center does not timely pay a fine for a violation of the licensing standards listed in §1105.A:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015).

Chapter 13. Denial, Revocation or Non-Renewal of License

§1301. Reasons for Denial, Revocation or Refusal to Renew

A. - A.13. ...

14. any instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment, or physical or sexual abuse or neglect, if the owner is responsible or if the employee who is responsible remains in the employment of the center;

15. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015).

§1303. Notice of Denial, Revocation or Refusal to Renew

A. ...

B. The denial, revocation or refusal to renew shall be effective when notice is given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015).

§1307. Appeal of Denial, Revocation or Refusal to Renew

A. - B. ...

C. A center may continue to operate during the appeals process, as provided by the Administrative Procedure Act found at R.S. 49:950 et seq.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015).

Chapter 15. Minimum General Requirements and Standards

§1511. Procedures

A. - A.3. ...

4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015).

§1515. Child Records and Cumulative Files

A. - A.2. ...

3. written authorization signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parents, including any other early learning centers, transportation services, and any person or persons who may remove the child from the center:

a. the parent may further authorize additional individuals via a text message, fax, or email to the center in unplanned situations and follow it with a written authorization;

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015).

Chapter 17. Minimum Staffing Requirements and Standards

§1703. Criminal Background Checks for Volunteers, Staff, Visitors and Independent Contractors

A. Volunteers and Staff. An early learning center shall obtain a satisfactory fingerprint based criminal background check (CBC) from the bureau for each volunteer, staff member, or employee of any kind, prior to the person being present at the center or performing services for the center, and the center shall have copies of said documentation on-site at all times and available for inspection upon request by the Licensing Division.

1. A CBC for volunteers and staff shall be dated no earlier than 30 calendar days of the individual's hire date.

2. If volunteers or staff leave the employ of the center for more than 30 calendar days, a new satisfactory CBC shall be obtained prior to the individual being rehired or present on the early learning center premises.

a. For CBC purposes, volunteers or staff who are working at a center at the end of a school year, are off during the summer as part of the center's scheduled yearly calendar

dates of operation, and return to work at the same center for the beginning of the school year immediately following the summer they are off, are not considered to have left the employ of the center during the intervening summer.

B. Visitors and Contractors. An early learning center shall obtain documentation of a satisfactory fingerprint-based CBC or RTR for each visitor or independent contractor of any kind, prior to the person being present at the center or performing services for the center unless the visitor or independent contractor, other than *therapeutic professionals* as defined in §103, will be accompanied at all times while on the center premises by an adult, paid, staff member who is not being counted in child-to-staff ratios, and the center shall have copies of said documentation on site at all times and available for inspection upon request by the Licensing Division.

B.1. - C.2. ...

D. CBC from Bureau. An early learning center may request a CBC from the bureau for any applicant, volunteer or staff member or independent contractor by submitting a request to the bureau that shall be made on a form prepared by the bureau, be signed by a responsible officer or official of the center, and include a statement signed by the person about whom the request is being made giving permission for such information to be released and the person's fingerprints in a form acceptable to the bureau.

E. A CBC or RTR is satisfactory if it shows no arrests for any crime included in R.S. 15:587.1(C), or if an arrest is shown on the CBC or RTR for any excludable offense, the CBC or RTR or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction.

F. RTR from Bureau

1. Applicant. If an applicant for employment has previously obtained an RTR from the bureau, it shall be accepted for a period of one year from the date of issuance by the bureau. Prior to the one-year expiration of the RTR, a satisfactory fingerprint-based CBC shall be obtained by the center for the volunteer or staff member in order for the individual to continue employment at the center. If a new CBC is not obtained prior to the one-year expiration of the RTR, the individual is no longer allowed on the early learning center premises until a new satisfactory CBC is obtained by the center.

2. Visitor or Contractor. An RTR for a visitor or independent contractor shall be accepted for a period of one year from the date of issuance by the bureau. Prior to the one year expiration of the RTR, a new fingerprint based satisfactory CBC shall be obtained by the center or a new RTR shall be obtained by the visitor or independent contractor in order for the visitor or contractor to be present at the center. If a CBC is not obtained by the center or a new RTR is not obtained by the visitor or contractor and provided to the center prior to the one year expiration, the visitor or contractor is no longer allowed on the early learning center premises until a new satisfactory CBC is obtained by the center or a new satisfactory RTR is provided to the center.

G. Court-Appointed Special Advocate. A court-appointed special advocate (CASA volunteer) shall submit to an early learning center his or her CASA volunteer order of assignment that is signed by a juvenile court judge and the

CASA volunteer, and it shall be accepted by the center as documentation of a satisfactory fingerprint based CBC for the CASA volunteer pursuant to *Louisiana Children's Code* Art. 424.1(D).

H. CBC Affidavits/CBC Annual Letters

1. First School Year—CBC Affidavit

a. If all requirements of this Subsection are met, the following individuals for whom their respective employers have previously obtained a satisfactory fingerprint-based CBC from the bureau, may submit to an early learning center a CBC affidavit, and the center shall accept the CBC affidavit as documentation of a satisfactory fingerprint-based CBC for the school year for which it is executed:

- i. local school district staff;
 - ii. Department of Education staff;
 - iii. Department of Health and Hospitals (DHH) staff; and
 - iv. type III early learning center staff providing classroom observations in early childhood care and education classrooms pursuant to Chapter 5 of BESE *Bulletin 140—Louisiana Early Childhood Care and Education Network*.
- b. The CBC affidavit shall be signed by the:
- i. local school superintendent, or his/her designee, for local school district staff;
 - ii. state superintendent of education, or his/her designee, for Department of Education staff;
 - iii. secretary of DHH, or his or her designee, for DHH staff; and
 - iv. director of the type III early learning center, or his or her designee, for the early learning center staff. The designee for this purpose is not a “director designee” as defined in §103 and does not have to meet director qualifications.

c. The CBC affidavit shall be valid if it:

- i. is in the form prescribed by the Licensing Division;
- ii. expressly states that the person signing the affidavit is certifying that the affidavit is being provided for a current employee for whom a satisfactory fingerprint based CBC has been previously obtained by the local school district, department or early learning center;
- iii. is signed by the appropriate individual provided in Subparagraph H.1.b of this Section; and
- iv. is an original, completed, and notarized affidavit.

d. The CBC affidavit shall be valid for the school year in which it is executed and shall expire on July 31 following the end of the school year.

e. The center shall have a copy of the CBC affidavit on-site at all times and available for inspection upon request by the Licensing Division.

2. Subsequent School Years—CBC Annual Letters

a. In all subsequent school years following the school year in which a CBC affidavit is presented, the individuals listed in Subparagraph H.1.a of this Section, may present either a new CBC affidavit or CBC annual letter to an early learning center, and the center shall accept the CBC affidavit or the CBC annual letter as documentation of a satisfactory CBC for the school year for which it is executed or signed.

b. The CBC annual letter shall:

- i. be presented on the appropriate school district, department or early learning center letterhead;
- ii. be in the form prescribed by the Licensing Division;
- iii. expressly state that the individual for whom the letter is provided has remained employed by the local school district, department, or the early learning center indicated in the original CBC affidavit presented to the center; and
- iv. be signed by the appropriate individual listed in Subparagraph H.1.b of this Section.

c. The CBC annual letter shall be accepted by the early learning center only if the early learning center has a copy of the CBC affidavit on file for the individual.

d. The CBC annual letter shall be valid for the school year in which it is signed and shall expire on July 31 following the end of the school year.

e. The center shall have a copy of the CBC annual letter and the CBC affidavit on-site at all times and available for inspection upon request by the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:631 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015).

§1707. Required Staff

A. - B.2. ...

C. More than 42 Children in Care. When the number of children present at an early learning center exceeds 42, the duties of the director or director designee shall consist only of performing administrative duties or there shall be an individual present whose job duties consist solely of administrative duties and of ensuring that staff members working with children do not leave their classrooms to handle administrative duties.

D. Staff

1. Staff shall be age 18 or older.

2. A person age 17 may be included in the child-to-staff ratio if the person works under the direct supervision of an adult staff member.

3. In type I centers only, a person age 16 may be included in the child-to-staff ratios if the person works under the direct supervision of an adult staff member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 41:2107 (October 2015).

§1713. Supervision

A. Children shall be supervised at all times in the center, on the playground, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

B. Children shall not be left alone in any room, (except the restroom as indicated in Subsection G of this Section or when being provided services by therapeutic professionals, as defined in §103), outdoors, or in vehicles, even momentarily, without staff present.

C. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:634 (April 2015), effective July 1, 2015, amended LR 41:2107 (October 2015).

§1721. Continuing Education

A. Early learning centers shall provide opportunities for continuing education of staff members. The center staff of type II and type III centers, excluding foster grandparents, shall obtain a minimum of 12 clock hours of training annually in the topics found in §1719.A and B. The center staff of type I centers, excluding foster grandparents, shall obtain a minimum of 3 clock hours of training annually in the topics found in §1719.A and B. Trainings for all types of centers shall be conducted by trainers approved by the Licensing Division. The Licensing Division shall keep a registry of approved trainers. Beginning July 1, 2015, type I center staff shall obtain a minimum of 6 clock hours of such training annually. Beginning July 1, 2016, type I center staff shall obtain a minimum of 9 clock hours of such training annually. Beginning July 1, 2017, type I center staff shall obtain a minimum of 12 clock hours of such training annually.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015).

Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards

§1903. Physical Environment

A. - D.1. ...

2. The maximum number of children in care at one time, whether on or off the premises, shall not exceed the capacity as specified on the current license.

D.3. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015).

§1907. Furnishings and Equipment

A. - D.3. ...

E. Cribs

1. Children are prohibited from sleeping in playpens or cribs with mesh sides.

2. Cribs shall be free of toys and other soft or loose bedding, including comforters, blankets, sheets, bumper pads, pillows, stuffed animals and wedges when the child is in the crib.

F. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015).

§1921. Emergency Preparedness and Evacuation Planning

A. - D. ...

E. Tornado Drills. Tornado drills shall be conducted at least once per month in the months of March, April, May, and June at various times of the day necessary to include all children and shall be documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015).

Charles E. "Chas" Roemer, IV
President

1510#034

RULE

Board of Elementary and Secondary Education

Bulletin 138—Jump Start Program
Student Participation (LAC 28:CLXIII.305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 138—Jump Start Program: §305, Student Participation in Jump Start Programs*. The policy revisions provide guidance for Jump Start internships.

Title 28

EDUCATION

**Part CLXIII. Bulletin 138—Jump Start Program
Chapter 3. Jump Start Program Requirements
§305. Student Participation in Jump Start Programs**

A. - A.4. ...

B. LEAs shall provide information as required by the LDE for all students participating in Jump Start internships at the completion of the semester in which the Carnegie credit is earned. Information shall include, but not be limited to, student attendance, student performance, student and employer responsibilities, and student completion of a workplace safety orientation consistent with the Jump Start pathway.

C.1. Each LEA participating in a regional team shall make available to all students the courses and training experiences included in approved Jump Start programs in order to meet career diploma graduation requirements or to satisfy elective credit requirements.

2. Jump start programs shall include a required career readiness course to teach students the employability skills needed to succeed in a high-performance work organization, including workplace, interpersonal, communication, leadership, and basic soft skills. The focus of career readiness courses shall be to teach students transferable skills necessary to succeed in the ever-changing workplace through teamwork, problem solving, communication, and self-management.

D. Enrollment of students in courses offered by approved course or training providers shall satisfy the requirements of Louisiana's compulsory attendance laws.

E. Each LEA participating in a regional team shall assure that all students enrolled in grades nine through twelve, including transitional ninth grade, are afforded the opportunity to participate in and benefit from approved Jump Start programs. Students who have not yet completed required core academic content may participate in Jump Start programs if deemed appropriate by the LEA, in order to assist them in:

1. facilitating the transition from middle school or junior high school to high school;

2. improving study skills;
3. building self-esteem and social skills;
4. developing critical thinking and problem-solving strategies;
5. acquiring employment skills;
6. promoting self-reflection and self-advocacy skills;
7. increasing school attendance;
8. improving attitudes toward school;
9. avoiding dropping out of school; and
10. establishing life and career goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:183.2, and R.S. 17:2930.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:1327 (July 2014), amended LR 41:2108 (October 2015).

Shan N. Davis
Executive Director

1510#025

RULE

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.Chapters 1-11)

The Board of Elementary and Secondary Education (BESE) has adopted LAC 28:CLXV, *Bulletin 139—Louisiana Child Care and Development Fund Programs*. As part of the child care and development fund (CCDF) transition, per Act 868 of 2014, BESE approved the establishment of Bulletin 139 at the March 2015 meeting and also approved revisions to the policy at the April 2015 meeting. In June, BESE approved the addition of chapters regarding the Child Care Assistance Program (CCAP) household eligibility, administration of school readiness tax credits, and Louisiana Pathways early learning center career development system. Additionally, this revision authorizes the Department of Education administration of CCAP household eligibility, SRTC, and Pathways, after July 1, 2015, (the date the LDE is officially lead agency for CCDF), and makes minor administrative changes to existing DCFS regulations to reflect the transition.

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 1. Child Care Assistance Program

§101. Authority

A. The Louisiana Child Care Assistance Program is established pursuant to the Child Care and Development Block Grant Act of 2014 (CCDBG) and administered by the Louisiana Department of Education (department) under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 9858, 45 CFR Parts 98 and 99 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015).

§103. Definitions

Automated Child Care Time and Attendance—an electronic system that provides accurate and timely capturing, tracking, and reporting of time and attendance

data. This system may utilize an adult’s finger image or IVR interactive voice response (IVR) as a mechanism for capturing this data.

BESE—Board of Elementary and Secondary Education.

BESE Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years.

BESE Bulletin 137—Louisiana Early Learning Center Licensing Regulations.

Bureau—Louisiana Bureau of Criminal Identification and Information.

Caregiver—any person legally obligated to provide or secure care for a child, including a parent, legal custodian, foster home parent, or other person providing a residence for the child.

CBC—criminal background check.

CCAP—Child Care Assistance Program.

CCAP Provider—a child care provider certified by the Department of Education as eligible to receive CCAP payments.

Certification—verification by the department of eligibility to participate in CCAP and receive CCAP payments.

Certified—eligible to participate in CCAP.

Child—a person who has not yet reached the age 13, or a person with special needs who has not yet reached age 18. The words “child” and “children” are interchangeable in this Bulletin.

Child and Adult Care Food Program—federal nutrition reimbursement program as funded by the U.S. Department of Agriculture through the Department of Education.

Child Care and Development Fund (CCDF)—federal program whose purpose is to increase the availability, affordability and quality of child care for eligible families.

Child Care Assistance Program (CCAP)—program funded through the CCDF that makes payments to eligible child care providers for child care services provided to eligible families.

Child Care Center—any place or center operated by any institution, political subdivision, 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 legal custodian, on a regular basis for at least 12 1/2 hours in a continuous seven-day week.

Child Care Provider—an early learning center, family child care provider, in home child care provider, military child care center or school child care center.

Child Care Resource and Referral (CCR and R)—a state or local organization with whom the department has contracted to provide services to families, early childhood professionals, and communities statewide.

Criminal Background Check (CBC)—a certified copy of a person’s criminal history information record obtained from the Louisiana Bureau of Criminal Identification and Information.

DCFS—Louisiana Department of Children and Family Services.

Department—Louisiana Department of Education.

Early Learning Center—any child day care center, Early Head Start center, Head Start center, or stand-alone prekindergarten program that is not attached to a school.

1. *Type I Early Learning Center*—an early learning center that is owned or operated by a church or religious organization that is qualified as a tax exempt organization under §501(c) of the *Internal Revenue Code* and that receives no state or federal funds directly or indirectly from any source.

2. *Type II Early Learning Center*—an early learning center that either receives no state or federal funds directly or indirectly from any source or whose only source of state or federal funds is from U.S. Department of Agriculture’s food and nutrition programs.

3. *Type III Early Learning Center*—an early learning center that directly or indirectly receives state or federal funds from any source other than the federal food and nutrition programs.

Family Child Care Provider—one individual who provides child care services for fewer than 24 hours per day per child, as the sole caregiver, for six or fewer children, in a private residence.

Family Independence Temporary Assistance Program (FITAP)—program administered by the Department of Children and Family Services (DCFS) that provides cash assistance to families with dependent children.

Finger Imaging—the measurement of physical characteristics of an adult’s finger for use in personal identification.

FITAP—Family Independence Temporary Assistance Program.

Full-Time Care—child care calculated to be 30 or more hours per week that is paid in units of days or half days with a maximum of 22 days per month.

Helping Individuals Reach Employment (HiRE)—system through which job seekers may file for unemployment and search for jobs that match their experience and interest.

Homeless—lacking a fixed, regular, and adequate nighttime residence. The term “homeless” shall encompass children and youths experiencing the particular conditions and situations provided for in subtitle B of title VII of the McKinney-Vento Education for Homeless Children and Youth Act, 42 U.S.C. 11434a(2).

Household Designee (HD)—an adult who is designated in writing by the CCAP head of household, other responsible household member, or authorized representative to drop-off and pick-up the child or children from a CCAP provider. In the case of an in-home provider, a household designee is the person to whom the provider may release the child or children when the provider leaves the home.

Ineligibility Period for Providers—period of time following the termination of a CCAP provider’s certification during which the provider is ineligible for certification.

In-Home Child Care Provider—an individual who provides child care services in the child or children’s own home.

Intentional Program Violation (IPV)—any act by a CCAP household member that consists of intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant facts.

IPV—intentional program violation.

Licensing Division—Department of Education, Licensing Division.

Louisiana Bureau of Criminal Identification and Information (Bureau)—bureau within the Office of State

Police that maintains a central repository of criminal history record information in Louisiana.

Louisiana Pathways Early Learning Center Career Development System (LA Pathways)—the state practitioner registry maintained by the department or its contractor. LA pathways registers early learning center directors and staff according to requirements based on training and education, experience, and professional activities, as approved by the department. Categories are established for early learning center staff, early learning center assistant teacher, early learning center teacher, early learning center assistant director and early learning center director.

Military Child Care Center—child care centers licensed by the U.S. Department of Defense.

MUP—minor unmarried parent.

Notice—written notice is considered given:

1. when it is sent by email or fax to the last email address or fax number furnished to the department;
2. when it is hand-delivered; or
3. on the fifth calendar day after it was mailed to the last mailing address furnished to the department.

Parent—includes parent, legal custodian or other person standing in loco parentis.

Part-Time Care—authorized child care calculated to be less than 30 hours per week, paid in units of hours (total per day may not exceed daily rate) up to a maximum of 129 hours per month.

Pathways—Louisiana early learning center career development system (LA pathways).

Quality Start Child Care Rating System—system designed to assess the level of quality of early care and education programs serving birth through age five, communicate the level of quality, and support improvements of type III early learning centers.

Relative or Related—the child, grandchild, niece, or nephew of the family child care provider.

School Child Care Center—any prekindergarten, or before and after school programs, or summer programs operated by a public school or a BESE-approved nonpublic school.

Seeking Employment—register for work with Louisiana Workforce Commission (LWC) by creating a helping individuals reach employment (HiRE) account and by maintaining an active work registration within their HiRE account.

SNAP—see Supplemental Nutrition Assistance Program.

Special Needs Child Care—child care for a child through age 17 who because of a mental, physical, or emotional disability, requires specialized facilities, lower staff ratio or specially trained staff to meet his or her developmental and physical needs. Incentive payments up to 25 percent higher than the regular rates can be allowed for a special needs child if the provider is actually providing the specialized care.

STEP—Strategies to Empower People Program.

Strategies to Empower People Program (STEP)—program administered by DCFS to provide opportunities for work eligible families of FITAP to receive job training, employment, and supportive services.

Supplemental Nutrition Assistance Program (SNAP)—federal program administered by DCFS that provides monthly benefits to that help eligible low income households buy food needed for good health.

TEMP—training or employment mandatory participant.

Training or Employment Mandatory Participant (TEMP)—a household member who is required to meet criteria described in §505.B.4 which includes the head of household, the head of household's legal spouse or non-legal spouse, the MUP age 16 or older whose child(ren) need CCAP, and the MUP under age 16 whose child(ren) live with the MUP and the MUP's disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school or work.

Transitional Living Program—any residential program or facility providing housing to homeless people, including but not limited to: emergency shelters; runaway and homeless youth residential programs or facilities; programs for parenting youth; programs for individuals who are fleeing domestic violence, dating violence, sexual assault, or stalking; transitional housing programs; and prisoner reentry programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015).

Chapter 3. CCAP Provider Certification

§301. Certification of Child Care Provider's Eligibility for Participation in CCAP

A. A child care provider must be certified by the Department of Education (department) as eligible for participation in the Child Care Assistance Program (CCAP) in order to become a CCAP provider and receive CCAP payments. No CCAP payments may be made to a child care provider until the provider is certified by the department.

B. To be certified as a CCAP provider, a child care provider must meet all general and specific certification requirements set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015).

§303. Types of Child Care Providers that May Apply for Certification

A. The following types of child care providers may apply for certification:

1. type III early learning centers;
2. family child care providers;
3. in-home child care providers;
4. school child care centers; and
5. military child care centers.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015).

§305. General Certification Requirements for All Child Care Providers

A. To be certified as a CCAP provider, a child care provider must meet the following requirements:

1. provider agreement. Complete and sign a provider agreement furnished by the department and meet all requirements contained therein;
2. email address. Provide a current email address and notify the department immediately upon a change in such email address by submitting a written amendment/change to the provider agreement;

3. time and attendance. Participate in the time and attendance system designated by the department and possess the minimum equipment necessary to operate the system;

4. direct deposit. Provide complete and accurate documentation and information required for direct deposit;

5. photo identification. Provide copies of government-issued photo identification and Social Security cards for the person signing the provider agreement;

6. mandatory reporting requirements. Comply with all mandatory reporting requirements for suspected cases of child abuse or neglect; and

7. additional requirements. Meet additional requirements for the specific type of child care provider set forth in §§309-317.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 9858 et seq., 45 CFR Parts 98 and 99, R.S. 17:407.28 and R.S. 17:407.61 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015).

§307. Specific Certification Requirements for Type III Early Learning Centers

A. To be certified as a CCAP provider, a type III early learning center must meet the requirements in §305 and have a valid type III early learning center license issued by the Licensing Division pursuant to R.S. 17:407.31 et seq.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015).

§309. Specific Certification and Registration

Requirements for Family Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305, a family child care provider must meet the following requirements, which include but are not limited to the requirements for registration as a family child care provider pursuant to R.S. 17:407.61 et seq.

1. Age. Be at least age 18.
2. Number of Children in Care. Care for no more than six children who are under age 13, or children with special needs who are under age 18.
3. Telephone. Have a working telephone that is capable of receiving incoming and making outgoing calls and that is available at all times in the residence in which care is being provided.
4. Costs. Pay costs necessary to obtain required criminal background checks.
5. State Fire Marshal. Provide written verification of current State Fire Marshal approval for the residence where care is being provided.
6. State Central Registry. Provide written certification that the provider, all adults employed in the residence and on the property of the residence where care is provided, and all adults living in the residence where care is provided have not been the subject of a validated finding of child abuse or neglect by completing a state central registry disclosure form.

7. Criminal Background Checks. Provide documentation of a satisfactory fingerprint based criminal background check (CBC) from the Louisiana Bureau of Criminal Identification and Information (bureau) for the provider, all adults employed in the residence and on the

property of the residence where care is provided, and all adults living in the residence where care is provided.

a. Electronic fingerprints shall be used in all parishes where they are available.

b. A satisfactory CBC is one that shows no arrests for any crime listed in R.S. 5:587.1(C), or if such an arrest is shown, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction.

8. CPR. Provide documentation of current certification in infant, child and adult CPR.

9. Pediatric First Aid. Provide documentation of current certification in pediatric first aid.

10. Orientation Training. Within six months of initial certification, complete the following training, maintain documentation verifying completion of the training, and make the documentation available for inspection upon request by the department:

a. a four-hour training that includes, at a minimum, information on recordkeeping, recognizing signs of child abuse, child abuse prevention and mandatory reporting of suspected cases of child abuse or neglect, communicating with parents, age appropriate activities for young children, child development, child safety and nutritional needs of children;

b. training that includes information on the following:

- i. prevention and control of infectious disease;
- ii. immunization schedules and requirements;
- iii. prevention of sudden infant death syndrome and use of safe sleeping practices;
- iv. prevention of and response to emergencies due to food and allergic reactions; and
- v. prevention of shaken baby syndrome and abusive head trauma;

c. if medication is administered to children in care, medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

11. Annual Training. Annually complete 12 clock hours of training in job-related subject areas approved by the department. Documentation verifying completion of the required training shall be maintained by the provider and made available for inspection upon request by the department. Orientation training counts toward the annual training requirement in the certification period taken.

12. Transportation. If transportation is provided, the provider shall use child safety restraints required by law, take precautions necessary to ensure the safety of children being transported, and develop emergency procedures and actions to be taken in the event of an accident or breakdown.

13. Parental Consent. Obtain written permission from a parent to administer medication to a child in care.

14. Immunizations. Obtain satisfactory evidence of immunization against, or an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

15. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

16. Building and Physical Premises. Identify and protect children from safety hazards in the residence and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

17. Emergency Planning. Have appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided posted in a prominent, easily visible location, and have a written emergency plan that protects children in the event of fire, flood, storm, hurricane, tornado, and snow and ice.

18. First Aid Supplies. Maintain first aid supplies in the residence.

19. Inspections. Allow inspection of the residence where care is provided by department staff and other authorized inspection personnel and parents of children in care, during normal working hours and when children are in care.

B. Family child care providers receiving CCAP payments or certified to receive CCAP payments shall be inspected no less than annually by department staff or other authorized inspection personnel.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015).

§311. Specific Certification Requirements for In-Home Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305, an in-home care provider must meet the following requirements which include, but are not limited to, the requirements for registration as an in-home provider pursuant to R.S. 17:407.61 et seq.

1. Age. Be at least age 18.
2. Telephone. Have a working telephone that is capable of receiving incoming and making outgoing calls and that is available at all times in the home in which care is being provided.
3. Costs. Pay costs necessary to obtain required criminal background checks.
4. State Fire Marshal. Provide written verification of current State Fire Marshal approval for the home where care is being provided.
5. State Central Registry. Provide written certification that the provider, all adults employed in the home and on the property of the home where care is provided, and all non-caregiver adults living in the home where care is provided have not been the subject of a validated finding of child abuse or neglect by completing a state central registry disclosure form.

6. Criminal Background Checks. Provide documentation of a satisfactory fingerprint based criminal background check (CBC) from the Louisiana Bureau of Criminal Identification and Information (bureau) for the provider, all adults employed in the home and on the property of the home where care is provided, and all non-caregiver adults living in the home where care is provided.

a. Electronic fingerprints shall be used in all parishes where they are available.

b. A satisfactory CBC is one that shows no arrests for any crime listed in R.S. 5:587.1(C), or if such an arrest is shown, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or *nolo contendere* shall be deemed to be a conviction.

7. CPR. Provide documentation of current certification in infant, child and adult CPR.

8. Pediatric First Aid. Provide documentation of current certification in pediatric first aid.

9. Orientation Training. Within six months of initial certification, complete training on the following. Documentation verifying completion of the trainings shall be maintained by the provider and available for inspection upon request by the department:

a. a four hour training that includes at a minimum, information on recordkeeping, recognizing signs of child abuse, child abuse prevention and mandatory reporting of suspected cases of child abuse or neglect, communicating with parents, age appropriate activities for young children, child development, child safety and nutritional needs of children;

b. training that includes information on the following:

- i. prevention and control of infectious disease;
- ii. immunization schedules and requirements;
- iii. prevention of sudden infant death syndrome and use of safe sleeping practices;
- iv. prevention of and response to emergencies due to food and allergic reactions; and
- v. prevention of shaken baby syndrome and abusive head trauma; and

c. if medication is administered to children in care, medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

10. Annual Training. Annually complete 12 clock hours of training in job-related subject areas approved by the department. Documentation verifying completion of the required training shall be maintained by the provider and made available for inspection upon request by the department. Orientation training counts toward the annual training requirement in the certification period taken.

11. Transportation. If transportation is provided, the providers shall use child safety restraints required by law, take precautions necessary to ensure the safety of children being transported, and develop emergency procedures and actions to be taken in the event of an accident or breakdown.

12. Parental Consent. Obtain written permission from a parent to administer medication to a child in care.

13. Immunizations. Obtain satisfactory evidence of immunization against, or of an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

14. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

15. Building and Physical Premises. Identify and protect children from safety hazards in the home and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

16. Emergency Planning. Have appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the home in which care is provided posted in a prominent, easily visible location, and have a written emergency plan that protects children in the event of fire, flood, storm, hurricane, tornado, and snow and ice.

17. First Aid Supplies. Maintain first aid supplies in the home.

18. Inspections. Allow inspection of the home where care is provided by department staff and other authorized inspection personnel during normal working hours and when children are in care.

B. In-home child care providers receiving CCAP payments or certified to receive CCAP payments shall be inspected no less than annually by department staff or other authorized inspection personnel.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2112 (October 2015).

§313. Specific Certification Requirements for Public School and BESE-approved Nonpublic School Child Care Centers

A. To be certified as a CCAP provider, a public or BESE-approved nonpublic school day care center must meet the requirements in §305, and in addition, a BESE-approved nonpublic school day care center must also be *Brumfield v. Dodd*-approved.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015).

§315. Specific Certification Requirements for Military Child Care Centers

A. To be certified as a CCAP provider, a military child care center must meet the requirements in §305 and have a valid child care license issued by the U.S. Department of Defense.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015).

§317. Individuals and Entities Categorically Ineligible for Certification as CCAP Providers

A. The following entities and individuals are categorically ineligible for certification as CCAP providers:

1. type I and type II early learning center; or
2. child care providers providing care outside of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2114 (October 2015).

§319. Caregiver's Ineligibility for CCAP Payments

A. A caregiver, even if certified to receive CCAP, may not receive CCAP payments for the caregiver's own children, foster children, or other children in the caregiver's custody.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2114 (October 2015).

§321. Revocation or Refusal of Renewal of Certification and Ineligibility Periods for Providers

A. The department may revoke or refuse renewal of a provider's certification and impose a period of ineligibility on the provider for program violations, which include but are not limited to the following:

1. violation of any provision of this Chapter;
2. violation of any terms of the CCAP provider agreement;
3. any act of fraud, such as the submission of false or altered documents or information, intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant fact;
4. failure to take steps or actions necessary to ensure the health, safety and well-being of children in care;
5. failure to report a known or suspected incident of abuse or neglect to child welfare authorities;
6. denial of center access to department staff or representatives or failure or refusal to cooperate with department staff in the performance of official duties;
7. failure to timely comply with a corrective action plan approved by the department;
8. failure to timely return any overpayment of child care assistance funds; or
9. failure to make timely restitution.

B. When certification is revoked or renewal is refused, the department shall provide written notice to the provider of the revocation or denial of renewal, and of the provider's ineligibility period, which may be 12 months, 24 months, or permanently.

C. Where the department determines a violation need not result in the revocation of or refusal to renew the provider's certification, the department may:

1. for the first violation, issue a written notice of violation that informs provider that continued or additional violations may result in the revocation or refusal to renew certification and a period of ineligibility;

2. for the second violation, issue a second written notice of violation that includes a corrective action plan (CAP) that outlines the required actions that must be implemented or completed immediately and notice that failure to timely complete the CAP or additional or continued violations may result in the revocation or refusal to renew certification and a period of ineligibility; and

3. for the third violation, terminate certification and impose a period of ineligibility of 12 months, 24 months or permanently.

D. If certification is revoked or renewal is refused, the action shall become effective when the provider is notified in writing. The written notice shall give the reason for revocation or refusal to renew certification.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2114 (October 2015).

Chapter 5. CCAP Household Eligibility

§501. Certification of Household Eligibility for Participating in CCAP

A. The household in which a child who needs child care resides must be certified by the department as eligible for participation in CCAP in order to have CCAP payments made to a CCAP provider for the care of a child in the household. No CCAP payments may be made for the care of a child until the household is certified by the department as eligible for participation in CCAP.

B. To be certified as a CCAP household, a household must meet all the eligibility requirements set forth in this Chapter.

1. A household is a group of individuals living together that consists of a head of household, that person's legal spouse or non-legal spouse, disabled adult parents who are unable to care for themselves or their child(ren) who are in need of care, and all children under the age of 18 who are dependent on the head of household or spouse, including the minor unmarried parents (MUPs) who are not legally emancipated, and children of MUPs.

2. The head of household is an individual with whom the child customarily resides more than half the time. The head of household is either the child's parent or an adult household member with primary responsibility for the child's financial support and care, if the parent is not living in the home or is living in the home but is under age 18 and not emancipated by law, or is disabled and is unable to care for himself and his child(ren).

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28..

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2114 (October 2015).

§503. Categorically Eligible CCAP Households

A. Residents of Family Independence Temporary Assistance Program (FITAP) who are satisfactorily participating in the Strategies to Empower People (STEP) Program are categorically eligible for CCAP.

B. CCAP will pay 100 percent of the FITAP/STEP participant's child care costs, up to the maximum amounts listed in §511.B, if the:

1. household includes a child in current need of child care who is under the age of 13, or age 13-17 and physically or mentally incapable of caring for himself or herself, as

verified by a physician or certified psychologist, or by receipt of supplemental security income (SSI), or who is under court supervision.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2114 (October 2015).

§505. Certification Requirement for Households

A. To be certified as a CCAP household, households not receiving FITAP must meet the following eligibility criteria.

1. The household must reside in Louisiana.
2. The household must include a child in current need of child care services who is under the age of 13, or age 13-17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of supplemental security income (SSI), or who is under court supervision.

3. The child must customarily reside more than half the time with the person who is applying for CCAP. A child is still considered to be residing with the head of household during up to six weeks of scheduled absences from the home or early learning center, if there are definite plans for the child to return to the home or early learning center.

4. Training or Employment Mandatory Participant (TEMP)

a. Unless disabled as established by receipt of Social Security Administration disability benefits, supplemental security income, Veterans' Administration disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his or her child(ren), as verified by a doctor's statement or by worker determination. The training or employment mandatory participant (TEMP) must be:

i. employed for a minimum average of 30 hours per week and all countable employment hours must be paid at least at the federal minimum hourly wage; or
ii. attending a job training or educational program for a minimum average of 30 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or
iii. engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or job training, or education as defined in Subparagraph A.4.b of this Section that averages at least 30 hours per week.

b. Exceptions:

i. a household in which all of the household members described in Paragraph A.4 of this Section meet the disability criteria, is not eligible for CCAP unless one of those members meets, the required minimum average of 30 activity hours per week;

ii. the employment and training activity requirements provided in Paragraph A.4 of this Section may be waived for a period of 180 days from the effective date of certification of CCAP eligibility for homeless parents or persons acting as parents who demonstrate that they are seeking employment or participating in a *transitional living program* as defined in §103. There is a six-month lifetime maximum for this exception.

5. Household income must not exceed 55 percent of the state median income for a household of the same size. *Income* is defined as:

a. the gross earnings of the head of household, that person's legal spouse, or non-legal spouse, and any minor unmarried parent (MUP) who is not legally emancipated and whose children are in need of CCAP, with the exception of income from:

i. Corporation for National and Community Service (CNCS);

ii. college work study; and

iii. disaster-related employment;

b. recurring unearned income of the following types for all household member:

i. Social Security Administration benefits;

ii. supplemental security income;

iii. Veterans' Administration benefits;

iv. retirement benefits;

v. disability benefits;

vi. child support or alimony;

vii. unemployment compensation benefits;

viii. adoption subsidy payments; and

ix. workers' compensation benefits.

6. The child in need of care must be either a United States citizen or a qualified alien.

7. The household must be current on payment of co-payments to any current or previous CCAP provider(s). Verification will be required to establish that co-payments are not owed by the household when:

a. a change in CCAP provider is reported;

b. an application for CCAP is received, if the most recent rejection of a CCAP application or closure was due to owing co-payments or not making necessary co-payments;

c. a CCAP provider reports that the household owes co-payments or is not making necessary co-payments.

B. The household requesting CCAP must provide the information and verification necessary for determining eligibility and monthly CCAP amount, and meet appropriate eligibility requirements established by the state. However, the verification of a child's age and immunizations may be waived for a period of 90 days from the effective date of certification for a household in which all of the members meet the *homeless* definition described in §103, as long as all other eligibility factors described in §505.A.1-3 and 5-7 are met.

C. Households eligible for CCAP payments may be assigned a certification period of up to 12 months. However, households relying on the exception to eligibility requirements found in §501.B.4.e that have had the 30 hours per week employment and training requirement waived for a homeless family shall be certified for six months.

D. All children receiving CCAP must be age-appropriately immunized according to the schedule of immunizations promulgated by the Department of Health and Hospitals, Office of Public Health, or be in the process of receiving all age-appropriate immunizations.

1. No person is required to comply with this provision if that person or his or her parent submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his or her parent objects to the procedure on religious grounds.

2. Verification of a child's age and immunizations may be waived for 90 days from the effective date of certification for a household in which all of the members meet the

homeless definition provided in §103, as long as all other eligibility factors described in §505.A.1-3 and 5-7 are met.

E. CCAP households must participate in the system designated by the department for capturing time and attendance. This process may include finger imaging for the heads of household and household designees.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2115 (October 2015).

§507. Changes That Must Be Reported by CCAP

Households

A. A CCAP household shall report any change that affects CCAP eligibility or the calculation of the amount of monthly CCAP payments.

B. Changes in the following shall be reported within 10 days of knowledge of the change:

1. changes in household's gross monthly income if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income;

2. a change in CCAP provider;

3. an interruption of at least three weeks or the termination of any TEMP's employment or training; or

4. a child receiving CCAP leaves the household.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015).

§509. Funding Availability and Prioritization

A. Availability. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis so that a limited amount of federal funding is available each year through the child care and development fund (CCDF). Therefore, a determination will be made of the number of children, or seats, that CCDF can pay for based on available funding.

B. Prioritization

1. The children of STEP participants shall be categorically eligible for CCAP. The children of STEP participants whose FITAP eligibility is terminated due to earned income will be given priority status with seats available for them as long as other eligibility factors are met and funding is available.

2. Children with special needs will be given priority status should it be necessary for a waiting list to be implemented. Children with special needs will be given priority status with seats available for them as long as other eligibility factors are met.

3. After all available seats are filled, a waiting list of households or eligible children will be established and maintained for each parish in chronological order by date of application. As seats become available, households will be removed from the waiting list and considered for current eligibility.

a. To facilitate maintaining an active waiting list in each parish, open enrollment will be scheduled for a limited time in the months of October, January, April, and July. During open enrollment periods, children in households determined eligible will be added to the waiting list. At the department's discretion additional enrollment periods may be designated.

C. The department has the authority to implement an application freeze based on the lack of available child care funds to operate CCAP.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015).

§511. Payments Made on Behalf of Ineligible Households

A. All CCAP payments made on behalf of ineligible households are subject to action to recover such payments with the exception of inadvertent household error claims and administrative error claims in the amount of \$125 or less for non-participating households.

B. Action will be taken to recover:

1. all ineligible payments from currently participating households;

2. all payments resulting from an intentional program violation (IPV); and

3. all payments resulting from errors that are discovered in a quality control review.

C. When a participant is suspected of IPV, the department may:

1. refer the case for prosecution; or

2. refer the case for a disqualification hearing if the participant does not sign the waiver of right to an administrative hearing and the facts of the case do not warrant civil or criminal prosecution through the appropriate court systems, or the case was previously referred for prosecution and was declined by the appropriate legal authority, or the case was previously referred for prosecution and no action was taken within a reasonable period of time and the referral was formally withdrawn by the department.

D. If an IPV is identified, the department may send a notice to the person to be disqualified and take action to disqualify for the appropriate situations:

1. 12 months for the first violation;

2. 24 months for the second violation; and

3. permanently for the third violation.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015).

§513. Payments and Copayments Made to Providers

A. The sliding fee scale used for non-FITAP CCAP households will be revised based on the state median income and federal poverty levels, on an annual basis to the extent that funds are available. A non-FITAP CCAP household shall pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

B. Amount of Payments

1. Payments to CCAP providers on behalf of non-FITAP households, with the exception of homeless families who are exempt from the employment and training requirements as provided in §505.A.4.b.ii, will be a percentage of the lesser of:

a. the CCAP provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for CCAP as indicated below.

Child Care Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Type III Early Learning Center	\$17.50	\$18.50	\$21.65	\$22.65
School Child Care Center	\$15.00	\$16.00	\$18.50	\$19.50
Family Child Care Provider	\$15.00	\$16.00	\$18.50	\$19.50
In-Home Provider	\$14.50	\$15.50	\$17.90	\$18.90
Military Child Care Centers	\$17.50	\$18.50	\$21.65	\$22.65

2. Payments to CCAP providers on behalf of FITAP recipients and homeless families who are exempt from employment and training requirements pursuant to §505.A.4.b.ii will be the lesser of:

- a. the CCAP provider's actual charge multiplied by authorized service days or authorized service hours; or
- b. the state maximum rate for CCAP as indicated below.

Child Care Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Type III Early Learning Center	\$17.50	\$18.50	\$21.65	\$22.65
School Child Care Center	\$15.00	\$16.00	\$18.50	\$19.50
Family Child Care Provider	\$15.00	\$16.00	\$18.50	\$19.50
In-Home Provider	\$14.50	\$15.50	\$17.90	\$18.90
Military Child Care Centers	\$17.50	\$18.50	\$21.65	\$22.65

3. The number of days or hours authorized for payment is based on the lesser of the following:

- a. the time the child is actually in care each week;
- or
- b. the number of hours the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or
- c. the time the care is actually needed and available.

C. Payment is made to the CCAP provider after child care has been provided.

D. Payment may be made to more than one CCAP provider for the same child if the combined payment does not exceed the maximum allowable per child.

E. Absences

1. Payment will not be made for absences of more than two days by a child in any calendar month or for an extended closure by a CCAP provider of more than two consecutive days in any calendar month.

2. A day of closure, on a normal operating day for the provider, is counted as an absent day for the child(ren) in the CCAP provider's care.

3. If a child authorized for full-time care attends child care less than four hours in one day, this will be counted as a half day absent and half the daily rate will be paid to the provider.

4. No absences will be authorized for part-time care.

5. Exception. In cases of federal, state, or locally declared emergency situations or other special circumstances, the department may waive this absence policy.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015).

Chapter 7. Administration of School Readiness Tax Credits

§701. General School Readiness Tax Credit Provisions

A. For purposes of the tax credits provided in R.S. 47:6101-6109, a child is deemed to be five years of age or less if the child is five years of age or less on any day of the taxable year for which a credit is claimed.

B. The term "business" as used in this Chapter means any for-profit or not-for-profit entity not including any individual operating in their personal capacity.

C. The credits provided for in R.S. 47:6101-6109 are applicable against individual income tax and corporation income and franchise tax but not against income taxes imposed on estates and trusts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:2117 (October 2015).

§703. Early Learning Center Expense Tax Credit

A. The Department of Revenue shall make available to qualifying early learning centers a credit certificate to be given to each taxpayer claiming the early learning center expense tax credit. The credit certificate will consist of an early learning center portion of the certificate and a taxpayer portion of the certificate.

B. The early learning center shall complete the early learning center portion of the credit certificate and shall submit the certificate to each taxpayer who had a child at the early learning center during the calendar year no later than January 31 of the succeeding year. The early learning center portion of the credit certificate will include, but not be limited to, the following information: the early learning center name, the early learning center star rating, the early learning center Louisiana tax identification number, the

Louisiana early learning center license number from the department, the name of the child attending the early learning center, and the issue date and effective year. The early learning center shall submit to the Department of Revenue a list of all taxpayers to whom a certificate was issued.

C. The taxpayer shall complete the taxpayer portion of the certificate which will include, but not be limited to, the following information: the name and Social Security number of the taxpayer claiming the credit; and the name, Social Security number and date of birth for the qualifying child for whom this credit is claimed on the tax return. The taxpayer must submit or maintain the certificate as required by the secretary of the Department of Revenue in forms and instructions.

D. The department shall provide information necessary for the secretary of the Department of Revenue to determine the early learning center's quality rating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:2117 (October 2015).

§705. Early Learning Center Tax Credit

A. The average monthly number of children as used in R.S. 47:6105 is to be determined on a calendar year basis and the early learning center shall claim the credit for the tax year that includes December 31. The early learning center tax credit will be calculated based on the average monthly number of children participating full-time in CCAP or the foster care program, from January to December of a calendar year, as follows:

1. full-time participation is considered when CCAP or foster care program pays for at least 12 days of service per child during the month; or

2. part-time participation is considered when CCAP or Foster Care Program pays for at least 40 hours of service per child during the month; or

3. part-time participation is considered when CCAP or foster care program pays for at least 5 days but no more than 11 days of service per child during the month; or

4. two part-time participants are considered one full-time participant for purposes of this calculation.

B. The department shall provide documentation to each qualifying early learning center of the average monthly number of children participating in CCAP or in the foster care program. If the early learning center has multiple sites, the department shall provide this information for each site. The certificate shall be delivered or mailed to all qualifying early learning centers by March 1 of the year following the year the credit is earned. The certificate shall include, but not be limited to, the following information: the early learning center name, the early learning center star rating, the early learning center license number and the issue date and effective year from the department.

C. Early learning centers that operate as a corporation or sole proprietorship shall submit or maintain the credit certificate as required by the secretary of the Department of Revenue in forms and instructions.

D. For early learning centers that operate as flow-through entities such as partnerships, LLCs electing partnership treatment, or S corporations passing credits through to shareholders, every partner, member, or shareholder claiming the credit must submit or maintain copies of the information issued by the department for each site. Every partner, member, or shareholder claiming the credit must submit or maintain a schedule showing how the total credit is allocated to each partner, member or shareholder.

E. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the early learning center's quality rating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:2118 (October 2015).

§707. Credit for Early Learning Center Directors and Staff

A. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

B. In order to claim this credit, the department or their representative, must provide early learning center directors and staff members with a certificate no later than January 31 that states which level of qualification the employee meets according to the criteria established by the department. The taxpayer must submit or maintain the certificate as required by the secretary of the Department of Revenue in forms and instructions.

C. Each early learning center director and staff member will also have to verify that he/she has worked at the same early learning center for at least six months in the calendar year, unless otherwise approved by the department.

D. Early learning center director and staff levels will have such meaning as provided by regulation issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:2118 (October 2015).

§709. Business-Supported Early Learning Center Credits

A. Business Early Learning Center Expense Credit

1. In order for a business to claim this credit, the business must provide the Department of Revenue the following information: the name and Louisiana revenue tax identification number of the early learning center to or for whom the eligible expenses were paid or made, the amount and nature of qualifying expenses at each early learning center as defined in R.S. 17:407.33, and the early learning center's quality rating.

2. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the early learning center's quality rating.

B. Payments and Donations to Child Care Resource and Referral Agencies

1. In order for a business to claim this portion of the business child care expense credit, the taxpayer must provide the Department of Revenue a receipt from the child care resource or referral agency for the amount of money the taxpayer paid and/or donated during the taxable year.

2. If the child care resource or referral agency is part of a larger charitable organization, only fees and/or donations made to the child care resource or referral agency division of that organization will qualify for this credit.

3. The department shall provide to the Department of Revenue a list of qualifying child care resource or referral agencies for each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:2118 (October 2015).

Chapter 9. Louisiana Pathways Early Learning Center Career Development System (LA Pathways)

§901. Authority

A. The Louisiana pathways early learning center career development system (LA pathways) is the state practitioner registry maintained by the department or its contractor. LA pathways offers early learning center staff, including directors, teachers, assistant teachers and other classroom staff, a formal mechanism to track their training and educational attainment, experience and professional affiliation in the field of early childhood care and education.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, R.S. 17:407.26, and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2119 (October 2015).

§903. Participation in LA Pathways

A. Any individual working or planning to work in the early learning center industry is eligible to enroll in LA pathways by completing and submitting an application and the required documents.

1. LA pathways will register early learning center directors and staff according to requirements based on training and education, experience and professional activities, as approved by the department. Participation is voluntary.

2. The state superintendent of education, pursuant to authority delegated by BESE, in specific instances, may waive compliance with a requirement in this Chapter if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children are not imperiled. If it is determined that the individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the state superintendent.

B. Requirements for the Administrator Track for LA Pathways

1. Assistant Director I

a. Training and education requirements:

i. annual training as required by Louisiana Early Learning Center Licensing Regulations.

b. Experience requirements:

i. none.
c. Professional activity requirements:
i. encouraged to participate in an early childhood professional organization.

2. Assistant Director II

a. Training and education requirements:

i. 60 clock hours in approved core knowledge (CDA) subject areas including 6 hours in regulations.

b. Experience requirements:

i. minimum six months.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

3. Assistant Director III

a. Training and education requirements:

i. 90 clock hours in approved core knowledge (CDA) subject areas including 15 hours in approved administrative training categories.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

4. Director

a. Training and education requirements:

i. as required by early learning center licensing regulations.

b. Experience requirements:

i. as required by early learning center licensing regulations.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

5. Director I

a. Training and education requirements:

i. CDA credential or approved early childhood diploma; and

ii. 30 clock hours in approved administrative training categories; or

iii. related associate degree or 30 hours toward associate degree with four college courses in early childhood or child development.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. membership in an early childhood professional organization.

6. Director II

a. Training and education requirements:

i. CDA credential or approved early childhood diploma; and

ii. 45 clock hours in approved administrative training categories or national administrative credential; or

iii. associate degree in early childhood or child development; or

iv. related associate degree with four college courses in early childhood or child development; or

v. related bachelor degree with three college courses in early childhood or child development.

b. Experience requirements:

i. minimum 18 months.

c. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, attendance at a conference or professional event.

7. Director III—Administrator Certificate

a. To receive an administrator certificate you must have 75 clock hours of instruction in approved administrative training categories.

b. Two college courses in approved administration can be substituted for the administrator certificate.

c. Training and education requirements:

i. CDA credential or approved early childhood diploma; and administrator certificate; or

ii. bachelor degree in early childhood or child development of which three college courses focus on infants and toddlers; and administrator certificate; or

iii. related bachelor degree with six college courses in early childhood or child development of which three courses focus on infants and toddlers and administrator certificate.

d. Experience requirements;

i. minimum two years.

e. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event.

8. Director IV

a. Training and education requirements:

i. master's degree in early childhood, child development or early childhood administration of which three courses focus on infants and toddlers and administrator certificate; or

ii. related master's degree with eight college courses in early childhood or child development of which three courses focus on infants and toddlers and administrator certificate.

C. Requirements for the Classroom Track for LA Pathways

1. Early Learning Center Staff I

a. Training and education requirements:

i. as required by Louisiana early learning center licensing regulations.

b. Experience requirements:

i. none.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

2. Early Learning Center Staff II

a. Training and education requirements:

i. 12 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum six months.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

3. Early Learning Center Staff III

a. Training and education requirements:

i. 30 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

4. Early Learning Center Staff IV

a. Training and education requirements:

i. 60 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization

5. Early Learning Center Assistant Teacher I

a. Training and education requirements:

i. 90 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

6. Early Learning Center Assistant Teacher II

a. Training and education requirements:

i. 120 clock hours of instruction in approved core knowledge (CDA) subject areas.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

7. Early Learning Center Teacher I

a. Training and education requirements:

i. CDA credential or approved early childhood diploma.

b. Experience requirements:

i. minimum one year.

c. Professional activity requirements:

i. encouraged to participate in an early childhood professional organization.

8. Early Learning Center Teacher II

a. Training and education requirements:

i. CDA credential or approved early childhood diploma; and

ii. nine CEU's or two early childhood college courses; or

iii. 30 hours toward associate degree with four college courses in early childhood or child development; or

iv. related associate degree.

b. Experience requirements:

i. minimum two years.

c. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.

9. Early Learning Center Teacher III

a. Training and education requirements:

- i. associate degree in early childhood or child development; or
- ii. related associate degree with 4 college courses in early childhood or child development; or
- iii. bachelor degree in early childhood or child development; or
- iv. related bachelor degree with three college courses in early childhood or child development.
- b. Experience requirements:
 - i. minimum two years.
- c. Professional activity requirements:
 - i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.

10. Early Learning Center Teacher IV

- a. Training and education requirements:
 - i. bachelor degree in early childhood or child development of which three college courses focus on infants and toddlers; or
 - ii. related bachelor degree with six early childhood or child development college courses of which three focus on infants and toddlers.
- b. Experience requirements:
 - i. minimum two years.
- c. Professional activity requirements:
 - i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.

11. Early Learning Center Master Teacher

- a. Training and education requirements:
 - i. graduate degree in early childhood or child development; or
 - ii. unrelated graduate degree with four early childhood or child development college courses.
- b. Experience requirements:
 - i. minimum two years.
- c. Professional activity requirements:
 - i. membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities.

D. Qualification for the School Readiness Tax Credit for Early Learning Center Directors and Staff

1. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. Early Learning Center Director Levels

- a. Directors who are classified as director I by LA pathways are classified as meeting level I qualifications for purposes of this credit.
- b. Directors who are classified as director II by LA pathways are classified as meeting level II qualifications for purposes of this credit.
- c. Directors who are classified as director III by LA pathways are classified as meeting level III qualifications for purposes of this credit.

d. Directors who are classified as director IV by LA pathways are classified as meeting level IV qualifications for purposes of this credit.

3. Early Learning Center Staff Levels

- a. Staff members who are classified as early learning center teacher I by LA pathways are classified as meeting level I requirements for purposes of this credit.
- b. Staff members who are classified as early learning center teacher II by LA pathways are classified as meeting level II requirements for purposes of this credit.
- c. Staff members who are classified as early learning center teacher III by LA pathways are classified as meeting level III requirements for purposes of this credit.
- d. Staff members who are classified as early learning center teacher IV or early learning center master teacher by LA pathways are classified as meeting level IV requirements for purposes of this credit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, R.S. 17:407.26, and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2119 (October 2015).

Chapter 11. Quality Start Child Care Rating System [Formerly Chapter 3]

§1101. Authority

A. The quality start child care rating system is established and administered by the department under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2121 (October 2015).

§1103. Definitions

Approved Courses—courses that are deemed approved by the department.

Assistant Directors—must be on site for a minimum of 20 hours per week for centers with an enrollment of 101 or more.

Assistant Teachers—any staff who cares for children in a classroom setting who can be assessed using the ITERS-R/ECERS-R and works at least 16 hours per week in the center.

Child Development Associate (CDA) Credential—a nationally recognized credential which can be used to meet staff qualification requirements.

Director—an administrator who meets the director qualifications as outlined in BESE Bulletin 137, §1709 and is on-site a minimum of 30 hours per week during operating hours when children are present.

Early Childhood Environment Rating Scale-Revised (ECERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children ages 2.5-5 years of age.

Environment Rating Scales (ERS)—the assessment tools developed at Frank Porter Graham Child Development Institute at the University of North Carolina that measure environmental indicators of quality. These indicators include the infant toddler environment rating scale-revised (ITERS-R) and the early childhood environment rating scale-revised (ECERS-R), as well as the school age care environment rating scale (SACERS) for school age programs, and the family child care environment rating scale-revised (FCCERS-R) for family child care homes. Only the ITERS-

R/ECERS-R apply for purposes of the quality start child care rating system at this time.

Group—those children who are assigned for most of the day to a specific teacher and who occupy an individual classroom or well defined space that prevents intermingling of children from different groups within a larger group or area.

Infant Toddler Environment Rating Scale-Revised (ITERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children 0-2.5 years of age.

Lead Teacher—a teacher who has primary responsibility for a designated classroom that can be assessed using the ITERS-R/ECERS-R, including planning and supervision, and spends at least 25 hours a week in that classroom. All classrooms must have a lead teacher.

Quality Start Child Care Rating System Points—points given in the program, staff qualifications, administration practices, and family and community involvement areas. All items within a point must be verified to receive credit. The total points earned determine the star award at star rating three, four, and five.

Service Period—the months within the calendar quarter for which a child received care.

Social Emotional Subscales of the Environment Rating Scales—a subscale of the ECERS-R and ITERS-R generated by the scores earned on the language-reasoning, interaction and program structure subscales of the ECERS-R and the listening and talking, interaction and program structure subscales of the ITERS-R. This new subscale score will be used to determine the ERS score for program points 1-4.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2121 (October 2015).

§1105. Quality Start Child Care Rating System Requirements

A. The quality start child care rating system is designed to assess the level of quality of early care and education for programs serving birth through age five, communicate the level of quality, and support improvements of type III early learning centers.

1. The quality start child care rating system consists of five star ratings that can be earned by a licensed type III early learning center, uses licensing as the foundation, and has four star ratings above Louisiana's type III early learning center licensing standards.

2. The system components (administration practices, family and community involvement, program, and staff qualifications) have indicators that must be achieved to earn the star rating.

3. The state superintendent of education (state superintendent), in specific instances, may waive compliance with a requirement if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled. If it is determined that the facility or individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the state superintendent.

B. One Star. To participate at the one-star level, a type III early learning center shall have a valid type III early learning center license and comply with all laws, regulations and minimum standards applicable to type III early learning centers as set forth in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

C. Two Star. To earn a two-star award, a type III early learning center must meet all the standards for a one star, have been in operation for six months, and meet the following:

1. administration practices:
 - a. written personnel policies including:
 - i. operational hours;
 - ii. dress code;
 - iii. use of telephone; and
 - iv. schedule;
 - b. job descriptions that include a list of qualifications on file and provided to all staff;
 - c. provide one staff benefit from the list of options below for all full-time staff. Staff benefit options:
 - i. employee health insurance or comparable health benefits;
 - ii. paid annual leave;
 - iii. paid sick leave;
 - iv. paid holidays;
 - v. child care benefit/discount;
 - vi. bonus based on merit/achievement or education;
 - vii. retirement compensation;
 - viii. annual increments based on merit;
 - ix. tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes;
 - x. differential shift pay;
 - xi. flextime;
 - xii. pay professional association membership fee;
 2. family and community involvement:
 - a. parent-provided pre-enrollment visit and center tour;
 - b. give every parent enrolling a child a list of community resources including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, SNAP assistance and information on a child's medical home;
 3. program:
 - a. make four of the following activity areas available daily:
 - i. art and creative play;
 - ii. children's books;
 - iii. blocks and block building;
 - iv. manipulatives; and
 - v. family living and dramatic play;
 - b. complete a self-assessment of the center's program and develop a center improvement plan;
 4. staff qualifications:
 - a. directors and teachers must join and maintain a current record with the Louisiana pathways child care career development system. Directors must complete three hours of introduction to environment rating scale (ERS) training;
 - b. director (on site):
 - i. three semester hour credits in care of young children or child development; and
 - ii. three semester hour credits in administration;
- and

- iii. one year of experience in teaching young children in an early childhood program;
- c. assistant director:
 - i. three semester hour credits in the care of young children or child development;
- d. teacher—75 percent of lead teachers must meet one of the following:
 - i. complete three semester hour credits course in the care of young children or child development from a list of approved courses or enroll in the course and complete the course within one year of employment.

D. Point Standards for Type III Early Learning Centers seeking Three Star Rating, Four Star Rating, and Five Star Ratings

1. To achieve a higher rating, a type III early learning center must meet all requirements of the two star rating and earn points in program and staff qualifications by meeting the requirements listed below. At least one point must be earned in both program and staff qualifications. The quality point referenced in Subparagraph D.1.c of this Section may also be earned. The total number of points will determine the star rating awarded to the center:

Total Number of Points	Star Rating
3-5 points	Three Stars
6-9 points	Four Stars
10-11 points	Five Stars

- a. program:
 - i. criteria for one point:
 - (a). an average of 3.75 on the designated social-emotional subscale of the environment rating scale (ERS), with no one classroom score lower than 3.0 on the subscale;
 - ii. criteria for two points:
 - (a). an average of 4.0 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.0 on the subscale;
 - iii. criteria for three points:
 - (a). an average of 4.25 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.25 on the subscale;
 - (b). staff: child ratio and group size:
 - (i). 0-12 months 1:4, 8;
 - (ii). 13-24 months 1:6, 12;
 - (iii). 25-36 months 1:8, 16;
 - (iv). 3 years 1:10, 20;
 - (v). 4 years 1:12, 24;
 - (vi). 5 years 1:15, 30;
 - (c). written transition procedures for children moving within a program or to other programs or beginning school;
 - iv. criteria for four points:
 - (a). an average of 4.5 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.5 on the overall ERS;
 - (b). complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources;
 - (c). staff: child ratio and group size:
 - (i). 0-12 months 1:4, 8;
 - (ii). 13-24 months 1:6, 12;

- (iii). 25-36 months 1:8, 16;
- (iv). 3 years 1:10, 20;
- (v). 4 years 1:12, 24;
- (vi). 5 years 1:15, 30;
- (d). written transition procedures for children moving within a program or to other programs or beginning school;
- v. criteria for five points:
 - (a). an average of 5.0 on the overall ERS, with no one classroom score lower than 4.0;
 - (b). complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources;
 - (c). provide a plan for continuity of care for all children 0-36 months of age;
 - (d). implementation of Louisiana’s standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;
 - (e). staff: child ratio and group size:
 - (i). 0-24 months 1:4, 8;
 - (ii). 2 years 1:6, 12;
 - (iii). 3 years 1:8, 16;
 - (iv). 4 years 1:10, 20;
 - (v). 5 years 1:10, 20;
- b. staff qualifications:
 - i. criteria for one point:
 - (a). directors and all lead teachers complete training in Louisiana’s standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*;
 - (b). director (on site):
 - (i). six semester hour credits in the care of young children or child development; and
 - (ii). three semester hour credits in administrative coursework, and
 - (iii). one year experience teaching young children in an early childhood program;
 - (c). assistant director:
 - (i). three semester hour credits in the care of young children or child development;
 - (d). lead teacher:
 - (i). all of lead teachers must complete three semester hour credits in the care of young children or child development from a list of approved courses or enroll in the course and complete the course within one year of employment;
 - (e). assistant teacher:
 - (i). fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development and complete the course within one year of employment;
 - ii. criteria for two points:
 - (a). directors and all lead teachers complete training in Louisiana’s standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for*

Early Childhood Care and Education Programs Serving Children Birth-Five Years;

(b). director:
(i). nine semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year of teaching experience and one year teaching or administrative experience in an early childhood program;

(c). assistant director:

(i). three semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teacher:

(i). seventy-five percent of lead teachers must have completed six semester hour credits in the care of young children or child development from a list of approved courses or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(ii). one year full-time experience in an early childhood setting;

(e). assistant teacher:

(i). fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development and complete the course within one year of employment;

iii. criteria for three points:

(a). directors and all teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years;*

(b). director:

(i). twelve semester hour credits in the care of young children or child development; and

(ii). six semester hour credits of administrative coursework; and

(iii). three years experience in an early childhood setting as follows: at least one year of teaching experience and at least one year of administrative experience and one year of either teaching or administrative experience;

(c). assistant director:

(i). three semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teacher:

(i). seventy-five percent of lead teachers must have completed nine semester hour credits in the care of young children or child development from a list of approved courses or have completed six semester hour credits and be enrolled in an additional three semester hour

credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(ii). one year full-time experience in an early childhood setting;

(e). assistant teacher:

(i). fifty percent of assistant teachers must have completed three semester hour credits in the care of young children or child development;

iv. criteria for four points:

(a). directors and all teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years;*

(b). directors:

(i). fifteen semester hour credits in the care of young children or child development; and

(ii). six semester hour credits of administrative coursework; and

(iii). four years experience in an early childhood setting as follows: at least one year of teaching experience and at least one year of administrative experience and two years of either teaching or administrative experience;

(c). assistant directors:

(i). three semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administrative coursework; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teachers:

(i). seventy-five percent of lead teachers must have completed 12 semester hour credits in the care of young children or child development from a list of approved courses or have completed nine semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(ii). two years full-time experience in an early childhood setting;

(e). assistant teachers:

(i). all assistant teachers must have completed three semester hour credits in the care of young children or child development;

v. criteria for five points:

(a). directors and all teachers complete training in Louisiana's standards for early childhood care and education programs serving children birth-five years found in BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years;*

(b). director:

(i). associate's degree in the care of young children, child development or related field, with specific coursework in infant-toddler care, and the care of exceptional children or equivalent such as director III LA pathways; and

(ii). six semester hour credits of administrative coursework and five years experience in an early childhood setting as follows: at least one year of teaching experience and at least one year of administrative experience, and three years of either teaching or administrative experience;

(c). assistant director:

(i). six semester hour credits in the care of young children or child development; and

(ii). three semester hour credits in administration; and

(iii). one year experience in teaching young children in an early childhood program;

(d). lead teacher:

(i). all lead teachers must have six semester hour credits in the care of young children or child development from a list of approved courses; and

(ii). seventy-five percent of lead teachers must have completed 15 semester hour credits in the care of young children or child development from a list of approved courses or have completed 12 semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment; and

(iii). two years full-time experience in an early childhood setting for all teachers;

(e). assistant teachers:

(i). all assistant teachers must have completed six semester hour credits in the care of young children or child development or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework and complete the course within one year of employment;

c. one additional quality point can be earned by meeting additional requirements in both the administration practices and the family and community involvement areas:

i. administration practices. Meet three requirements below:

(a). provide four of the benefits from the list of options below for all full-time staff;

(b). include grievance procedure and a professional conduct code for staff in written personnel policies;

(c). pay scale based on education, experience, responsibilities and merit;

(d). provide training to staff on cultural sensitivity;

(e). written parent and staff confidentiality policy and provide training to staff;

ii. family and community involvement. Meet four requirements below:

(a). director or assistant director participates annually in at least two director's meetings provided by the resource and referral agency;

(b). provide a complaint process for parents;

(c). offer opportunity for a formal parent/teacher conference meeting annually;

(d). provide an expanded list of local community resources to parents annually including, but not limited to,

LaCHIP, Medicaid, child care assistance, housing assistance, snap assistance and information on a child's medical home;

(e). parent advisory council meets annually to review policies, procedures and parent handbook;

(f). one group meeting per year offered to all families;

(g). one parent education workshop offered per year by center or other agency.

E. Substitutions. The following reference program criteria and staff qualifications in this Section.

1. Substitutions for Credits in the Care of Young Children

a. The following may be substituted to meet this requirement of three semester hour credits in the care of young children or child development:

i. a current CDA or have approved high school child development courses;

ii. have five years full-time experience in an early childhood program; or

iii. have completed a child care assistant teacher 1 LA pathways classroom certificate.

b. The following may be used to meet the requirement of up to six semester hour credits in the care of young children or child development:

i. current CDA; or

ii. have completed a child care assistant teacher 2 LA pathways classroom certificate.

c. An individual may use the above substitutions to meet the requirements for a maximum of six semester hour credits.

2. The following may be substituted to meet the requirement for three semester hour credits in administration:

a. LA pathways administrator certificate;

b. national administrator credential (NAC); or

c. three years experience in administration or a combination of one year in administration experience and four years in teaching young children in an early childhood program.

NOTE: For Director Qualification: Experience in teaching young children or administration may only be substituted one time. At the next rating review, the necessary educational requirement (credits in the care of young children or child development or credits in administration) must be met.

3. For the purpose of this document, the designated social-emotional subscale of the ERS is defined as consisting of the following subscales:

a. ITERS-R—listening and talking, interaction and program structure; and

b. ECERS-R—language-reasoning, interaction and program structure.

4. Staff benefits options:

a. employee health insurance or comparable health benefits;

b. paid annual leave; paid sick leave; paid holiday;

c. child care benefit/discount;

d. bonus based on merit/achievement or education;

e. retirement compensation;

f. annual increments based on merit;

g. tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes; and

h. differential shift pay, flextime, paid professional association fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2122 (October 2015).

§1107. Participation

A. A type III early learning center will complete the application to participate in the quality start child care rating system at one star. If awarded, this will establish the center's initial year in the system.

B. Centers with two to five stars may submit an application for a star(s) six months after the date of award of the current rating or denial of an award. A verification visit will be conducted by the department prior to the award of two or more stars.

C. Quality ratings earned prior to January 1, 2014 will be valid for two years from the date of the star rating award as long as the center continues to qualify for the star rating. Quality ratings earned by type III early learning centers on or after January 1, 2014, shall expire June 30, 2017. Quality ratings earned by type I and type II early learning centers on or after January 1, 2014 shall expire on December 31, 2015. A rating review, which may be a visit or verification of documentation, may be conducted on a percentage of participating centers to ensure continued compliance.

D. Centers that have achieved a star rating may have their rating reviewed and modified, if at any time it becomes known to the department or the department receives information from the center that the type III early learning center no longer meets standards for the center's current star rating award.

E. Centers that have achieved a star rating will have their rating revoked if the child care license is revoked or not renewed.

F. Centers that have achieved a star rating may have their rating revoked, or centers applying may be denied, if it is determined by the department that false or misleading statements or documents have been submitted or misrepresented or relevant facts have been concealed or withheld in order to qualify or maintain a star(s) in the quality start child care rating system or to obtain the school readiness tax credit (SRTC).

G. The provider must reimburse the department for all ineligible benefits received.

H. Participation in the quality start child care rating system is voluntary. There are no administrative appeal rights for providers whose participation is denied or terminated.

I. Centers that have their star award revoked by quality start may be prohibited from participating in quality start for 12 months from the date of revocation of star award.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2126 (October 2015).

§1109. Quality Start Child Care Rating System Tiered Bonus Payments

A. Bonus payments will be issued after the end of each calendar quarter to type III early learning centers that care for children receiving assistance from the Child Care Assistance Program and for children in the state's Foster Care Program in accordance with the star rating until June

30, 2016, and may be extended at the department's discretion through June 30, 2017. The payment is equal to a percentage, as defined below, of all child care subsidy payments received by the center from the department for services provided during the service period(s) in that quarter and the center's rating(s):

1. one star—0 percent;
2. two star—3 percent;
3. three star—8 percent;
4. four star—13.5 percent;
5. five star—20 percent.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2126 (October 2015).

§1111. Termination

A. The quality start child care rating system shall terminate on June 30, 2017.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2126 (October 2015).

Shan N. Davis
Executive Director

1510#024

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—TOPS University Diploma (LAC 28: CXV.2318 and 2354)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; and §2354, Media Arts. The policy adds photography I and II and digital photography to the courses that meet the one unit requirement for an arts course for the TOPS university diploma.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - C.2.g.i. ...

h. arts—1 unit:

i. 1 unit art (§2333), dance (§2337), media arts (§2354), music (§2355), theatre arts, (§2369), fine arts survey, photography I/II, or digital photography;

NOTE: Students may satisfy this requirement by earning half credits in two different arts courses.

2.h.ii. - 3.e.i. ...

f. art—one unit chosen from the following:

i. art (§2333);

ii. music (§2355);

iii. dance (§2337);

iv. theatre (§2369);

v. speech III and IV—one unit combined;

- vi. fine arts survey;
- vii. drafting;
- viii. media arts (§2354);
- ix. photography I/II;
- x. digital photography;

3.g. - 6.a.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and 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 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 41:915 (May 2015), LR 41:2126 (October 2015).

Subchapter B. Academic Programs of Study

§2354. Media Arts

A. Media arts course offerings shall be as follows.

Course Title(s)	Units
Media Arts I, II, III, IV	1 each
Photography I, II	1 each
Digital Photography	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2133 (July 2011), amended LR 41:2127 (October 2015).

Shan N. Davis
Executive Director

1510#026

RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Graduation Requirements (LAC 28:LXXIX.2109 and 2324)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*: §2109, High School Graduation Requirements; and §2324, Media Arts. The policy adds photography I and II and digital photography to the courses that meet the one unit requirement for an arts course for the TOPS university diploma.

**Title 28
EDUCATION**

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

**Chapter 21. Curriculum and Instruction
Subchapter C. Secondary Schools**

§2109. High School Graduation Requirements

A. - B.6. ...

7. arts—1 unit, shall be 1 unit of art (§2305), dance (§2309), media arts (§2324), music (§2325), theatre, fine arts survey, photography I/II, or digital photography;

NOTE: Students may satisfy this requirement by earning half credits in two different arts courses.

B.8. - D.5.a. ...

6. art—one unit from the following:

- a. art (§2305);
- b. music (§2325);
- c. dance (§2309);
- d. theatre (§2337);
- e. speech III and IV—one unit combined;
- f. fine arts survey;
- g. drafting;
- h. media arts (§2324);
- i. photography I/II;
- j. digital photography;

D.7. - F.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

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), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015).

Chapter 23. High School Program of Studies

§2324. Media Arts

A. Media arts course offerings shall be as follows.

Course Title(s)	Units
Media Arts I, II, III, IV	1 each
Photography I, II	1 each
Digital Photography	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2143 (July 2011), amended LR 41:2127 (October 2015).

Shan N. Davis
Executive Director

1510#027

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.305, 317, 706, 707,708, 709, 712, and 910)

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*: §305, Professional Level Certificates; §317, Local Education Agency Appeal; §706, Educational Leader Certificate Level 2 (EDL 2); §708, Educational Leader Certificate Level 3 (EDL 3); §709, Non-Practicing Status for Educational Leader Certificates; §712, Local Education Agency Appeal; and §910, Suspension and Non-Renewal of Certificate/Endorsement Due to Ineffectiveness. The policy revisions to educator certification renewal policy provide for certification renewal when an educator has not been evaluated due to administrative error, a non-practicing status, and an appeal by a local education agency.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 3. Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations

Editor's Note: The name of the Division of Student Standards and Assessments has been changed to The Division of Student Standards, Assessments, and Accountability.

§305. Professional Level Certificates

A. - A.1.d.i.(c). ...

B. Level 2 Professional Certificate—valid for five years.

1. Eligibility requirements:

a. hold or meet eligibility requirements for a level 1 certificate;

b. either successfully meet the standards of effectiveness for three years pursuant to Bulletin 130 and mandated by Act 54 of the Louisiana 2010 Legislative Session or receive a waiver of this provision from the LDE, at the request of the employing LEA, if the teacher was unable to meet the standards of effectiveness due to administrative error in the local implementation of the evaluation system any year prior to the 2015-2016 school year; and

c. accrue three years of experience in area(s) of certification in an approved educational setting.

2. If the level 2 certificate is the applicant's first certificate, a state-approved teacher preparation program provider must submit the request.

3. If the level 1 certificated teacher qualifies for advancement to a level 2 certificate, the request for the higher certificate must be submitted directly to the Louisiana Department of Education by the employing authority.

C. Level 3 Professional Certificate—valid for five years.

1. Eligibility requirements:

a. hold or meet eligibility requirements for a level 2 certificate;

b. a master's degree from a regionally accredited college or university;

c. five years of experience in area(s) of certification in an approved educational setting.

2. If the level 3 certificate is applicant's first certificate, a state-approved teacher preparation program provider must submit the request.

3. If the level 2 certificated teacher qualifies for advancement to a level 3 certificate, the request for the higher certificate must be submitted directly to the Louisiana Department of Education by the employing authority.

D. Renewal/Extension Guidelines for Level 1, Level 2, and Level 3 Certificates

1. Level 1 certificate:

a. valid for three years initially and may be extended thereafter for a period of one year at the request of a Louisiana employing authority. Level 1 certificates are limited to two such extensions. Teachers must successfully meet the standards of effectiveness for the renewal of this certificate pursuant to Bulletin 130 and mandated by Act 54 of the Louisiana 2010 Legislative Session.

2. Level 2 and level 3 certificates:

a. valid for five years initially and may be renewed thereafter for a period of five years at the request of a Louisiana employing authority. For renewal of level 2 and level 3 certificates, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and mandated by Act 54 of the Louisiana 2010 Legislative Session;

b. LEAs may request a one-time five-year renewal of the certificate if a teacher was unable to successfully meet the standards of effectiveness due to administrative error in the local implementation of the evaluation system any year prior to the 2015-2016 school year.

E. Non-Practicing Status for Level 1, 2, 3 Certificates

1. The LDE may grant non-practicing status to any teacher who applies within a year of ceasing employment as a teacher or leader evaluated pursuant to Bulletin 130 and Act 54 of the 2010 Legislative Session. An exception may be made for a teacher or leader who ended employment prior to November 1, 2015 with at least one evaluation rating in 2012-2013, 2013-2014, or 2014-2015.

2. Non-practicing status shall take effect on the last day of employment in the evaluated role, as verified by the employing LEA.

3. Non-practicing teachers returning to practice may apply through a Louisiana education agency for an extension of their certificate for the number of years remaining in the renewal period of the certificate.

4. Final effectiveness ratings earned while in active status will be retained during non-practicing status and applied to any subsequent renewal or extension.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33:433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 40:279 (February 2014), LR 41:2128 (October 2015).

§317. Local Education Agency Appeal

A. If a teacher's evaluation demonstrates that the standard for effectiveness, as determined by BESE, has been met, using value-added data or other components of the evaluation, for three years during the initial certification or renewal process, a certificate shall be issued or renewed unless the LDE or BESE receives evidence from the LEA that justifies discontinuation.

B. Similarly, if a teacher's evaluation demonstrates that the standard for effectiveness, as determined by BESE, has not been met, using either value-added data or other components of the evaluation, for three years during the initial certification or renewal process, the LDE/BESE shall not issue or renew a certificate unless evidence of effectiveness is received from the LEA that justifies the issuance of a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:3886.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2129 (October 2015).

Chapter 7. Administrative and Supervisory Credentials

Subchapter A. The Educational Leadership Certificate

§706. Educational Leader Certificate Level 2 (EDL 2) [Formerly §707]

A. To receive an EDL 2, the individual must:

1. hold a valid EDL 1 certificate, Louisiana provisional principal certification, or comparable level out-of-state educational leader certificate;

2. have three years of teaching experience in his/her area(s) of certification;

3. participate in an education leader induction administered, if required by the LEA; and

4. either meet the standards of effectiveness as an educational leader for three years pursuant to Bulletin 130 and R.S. 17:3902 or receive a waiver of this provision from the LDE, at the request of the employing LEA, if the educational leader was unable to meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system.

B. Renewal Requirements. An EDL 2 is valid for five years initially and may be extended thereafter for a period of five years at the request of an LEA. For renewal of EDL 2 certificate, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

1. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity will be required to meet the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902 for three years out of the five-year renewal period in order to renew their endorsement.

2. LEAs may request a one-time five-year renewal of the certificate, if the educational leader was unable to successfully meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:820 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 41:2129 (October 2015).

§707. Educational Leader Certificate Level 2 (EDL 2) Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:820 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), repealed LR 41:2129 (October 2015).

§708. Educational Leader Certificate Level 3 (EDL 3) [Formerly §709]

A. This certificate is required in order to serve as a school system superintendent or assistant superintendent.

1. Eligibility requirements:

a. valid EDL 2 or one of the Louisiana administrative/supervisory certifications that preceded the educational leadership certification structure;

b. five years of teaching experience in his/her area of certification;

c. five years of successful administrative or management experience in education at the level of assistant principal or above. The assistant principal experience would be limited to a maximum of two years of experience in that position; and

d. passing score on the school superintendent assessment (SSA), in keeping with state requirements.

2. Renewal Requirements. An EDL 3 is valid for five years initially and may be extended thereafter for a period of five years at the request of an LEA. For renewal of an EDL 3 certificate, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

3. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity will be required to meet the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902 for three years out of the five-year renewal period in order to renew their endorsement.

4. LEAs may request a one-time five-year renewal of the certificate if the educational leader was unable to successfully meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1824 (October 2006), amended LR 38:3139 (December 2012), LR 41:2129 (October 2015).

§709. Non-Practicing Status for Educational Leader Certificates

1. In order to retain evaluation ratings toward certification renewal, the LDE may grant non-practicing status to any educational leader who applies prior to voluntarily ceasing to continue employment with the LEA.

2. Non-practicing educational leaders returning to practice may apply through a Louisiana education agency for an extension of their certificate for the number of years they were not practicing, not to exceed five years.

3. Any final evaluation ratings while in active status will be retained during non-practicing status and applied to any subsequent renewal or extension.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2129 (October 2015).

§712. Local Education Agency Appeal

A. If an educational leader's evaluation demonstrates that the standard for effectiveness, as determined by BESE, has been met, using value-added data or other components of the evaluation, for three years during the initial certification or renewal process, a certificate shall be issued or renewed unless the LDE or BESE receives evidence from the LEA that justifies discontinuation.

B. Similarly, if an educational leader's evaluation demonstrates that the standard for effectiveness, as determined by BESE, has not been met, using either value-added data or other components of the evaluation, for three years during the initial certification or renewal process, the LDE/BESE shall not issue or renew a certificate unless evidence of effectiveness is received from the LEA that justifies the issuance of a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:3886.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2130 (October 2015).

Chapter 9. Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates

§910. Suspension and Non-Renewal of Certificate/Endorsement Due to Ineffectiveness

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3140 (December 2012), repealed LR 41:2130 (October 2015).

Shan N. Davis
Executive Director

1510#028

RULE

Department of Environmental Quality Office of the Secretary Legal Division

Decommissioning Planning
(LAC 33:XV.325, 331, 332, 430, and 1755)(RP059ft)

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 has amended the Radiation Protection regulations, LAC 33:XV.325, 331, 332 and 430 (Log #RP059ft).

This Rule is identical to federal regulations found in 10 CFR 20, 30, 40, and 70, which are applicable in Louisiana.

For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule has been promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule makes minor changes to the requirements for financial assurance and recordkeeping for decommissioning; criteria for license terminations; terms and conditions of licenses; and inalienability of licenses. The Nuclear Regulatory Commission (NRC) promulgated these changes as RATS ID 2011-1. This Rule updates the state regulations to be compatible with the revisions in the federal regulations. The changes in the state regulations are category A, B, C and H and S requirements for the state of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. 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 XV. Radiation Protection

Chapter 3. Licensing of Byproduct Material Subchapter D. Specific Licenses

§325. General Requirements for the Issuance of Specific Licenses

A. - D.5. ...

* * *

6. Each decommissioning funding plan shall be submitted for review and approval, and shall contain:

a. a detailed cost estimate for decommissioning, in an amount reflecting:

i. the cost of an independent contractor to perform all decommissioning activities;

ii. the cost of meeting the criteria in LAC 33:XV.332.D.1.iii for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of LAC 33:XV.332.F, the cost estimate may be based on meeting the criteria in LAC 33:XV.332.F;

iii. the volume of on-site subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and

iv. an adequate contingency factor; and

b. identification of and justification for using the key assumptions contained in the decommissioning cost estimate;

c. a description of the method of assuring funds for decommissioning from Paragraph D.8 of this Section, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility;

d. a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

e. a signed original of the financial instrument obtained to satisfy the requirements of Paragraph D.8 of this Section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).

7. At the time of license renewal and at intervals not to exceed three years, the decommissioning funding plan shall be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this cannot be done until the updated decommissioning funding plan is approved. The decommissioning funding plan shall update the information submitted with the original or prior approved plan, and shall specifically consider the effect of the following events on decommissioning costs:

- a. spills of radioactive material producing additional residual radioactivity in on-site subsurface material;
- b. waste inventory increasing above the amount previously estimated;
- c. waste disposal costs increasing above the amount previously estimated;
- d. facility modifications;
- e. changes in authorized possession limits;
- f. actual remediation costs that exceed the previous cost estimate;
- g. on-site disposal; and
- h. use of a settling pond.

8. Financial assurance for decommissioning shall be provided by one or more of the following methods.

a. Prepayment. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

b. Surety Method, Insurance, or Other Guarantee Method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix B. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this Section. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix B. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix E. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in LAC 33:XV.399.Appendix F. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this Section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used

to provide financial assurance for decommissioning shall contain the following conditions.

i. The surety method or insurance must be opened or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Office of Environmental Compliance, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the department within 30 days after receipt of notification of cancellation.

ii. The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the department. An acceptable trustee includes an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

iii. The surety method or insurance must remain in effect until the department has terminated the license.

c. External Sinking Fund. An external sinking fund shall have deposits made to it at least annually, and be coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions must be as stated in Subparagraph D.8.b of this Section.

d. Statement of Intent. In the case of federal, state, or local government licensees, a statement of intent shall be included containing a cost estimate for decommissioning or an amount based on the table in Paragraph D.5 of this Section, and indicating that funds for decommissioning will be obtained when necessary.

e. Arrangement with Governmental Entity. When a governmental entity is assuming custody and ownership of a site, an arrangement shall be made that is deemed acceptable by such governmental entity.

9. Each person licensed under this Chapter shall keep records of information important to the decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, licensees shall transfer all records described in this Paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the department considers important to decommissioning consists of the following:

- a. records of spills or other unusual occurrences involving the spread of contamination in and around the

facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations;

b. as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations;

c. records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used;

d. except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leakage has occurred) or radioactive materials having only half-lives of less than 65 days, a list contained in a single document and updated every two years that shall be kept on the following:

i. all areas designated and formerly designated *restricted areas* as defined in LAC 33:XV.102;

ii. all areas outside of restricted areas that require documentation under Subparagraph D.9.a of this Section;

iii. all areas outside of restricted areas where current and previous wastes have been buried, as documented under LAC 33:XV.478; and

iv. all areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in LAC 33:XV.332.E, or apply for approval for disposal under LAC 33:XV.461.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 23:1140 (September 1997), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1017 (May 2000), LR 26:2568 (November 2000), LR 27:1227 (August 2001), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2178 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:1927 (October 2014), LR 41:2130 (October 2015).

§331. Specific Terms and Conditions of Licenses

A. - B. ...

1. An application for transfer of license shall include the identity, technical and financial qualifications of the proposed transferee, and financial assurance for decommissioning information required by this Chapter.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005), LR 33:2180 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:1928 (October 2014), LR 41:2132 (October 2015).

§332. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

A. - E.2. ...

F. A site will be considered acceptable for license termination under restricted conditions if:

1. the licensee can demonstrate that further reductions in residual radioactivity necessary to comply with the provisions of Clause D.1.e.iii of this Section would result in net public or environmental harm or were not being made because the residual levels associated with restricted conditions are ALARA (determination of the levels which are ALARA shall take into account consideration of any detriments, such as traffic accidents, expected to potentially result from decontamination and waste disposal);

2. the licensee has made provisions for legally enforceable institutional controls that provide reasonable assurance that the *total effective dose equivalent* (TEDE), as defined in LAC 33:XV.102, from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 mrem (0.25 mSv) per year;

3. the licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site. Acceptable financial assurance mechanisms include:

a. funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual one percent real rate of return on investment;

b. a statement of intent in the case of federal, state, or local government licensees, as described in LAC 33:XV.325.D.7.d; or

c. when a governmental entity is assuming custody and ownership of a site (an arrangement that is deemed acceptable by such governmental entity); and

4. the licensee has submitted a decommissioning plan or license termination plan (LTP) to the department indicating the licensee's intent to decommission in accordance with Subparagraph D.6.a of this Section, and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and incorporated, as appropriate, following analysis of that advice:

a. licensees proposing to decommission by restricting use of the site shall seek advice from such affected parties regarding the following matters concerning the proposed decommissioning:

i. whether provisions for institutional controls proposed by the licensee:

(a). will provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 mrem (0.25 mSv) TEDE per year;

(b). will be enforceable; and

(c). will not impose undue burdens on the local community or other affected parties; and

ii. whether the licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site;

b. in seeking advice on the issues identified in Subparagraph F.4.a of this Section, the licensee shall provide for:

i. participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

ii. an opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

iii. a publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues; and

5. residual radioactivity at the site has been reduced so that if the institutional controls were no longer in effect, there is reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group is as low as reasonably achievable and would not exceed either:

a. 100 mrem (1 mSv) per year; or

b. 500 mrem (5 mSv) per year provided the licensee:

i. demonstrates that further reductions in residual radioactivity necessary to comply with the 100 mrem/y (1 mSv/y) value of Subparagraph F.5.a of this Section are not technically achievable, would be prohibitively expensive, or would result in net public or environmental harm;

ii. makes provisions for durable institutional controls; and

iii. provides sufficient financial assurance to enable a responsible government entity or independent third party, including a governmental custodian of a site, both to carry out periodic rechecks of the site no less frequently than every five years to assure that the institutional controls remain in place as necessary to meet the criteria of Paragraph F.2 of this Section, and to assume and carry out responsibilities for any necessary control and maintenance of those controls (acceptable financial assurance mechanisms are those in Paragraph F.3 of this Section).

G. Alternate Criteria for License Termination

1. The department may terminate a license using alternate criteria greater than the dose criterion in this Section if the licensee:

a. provides assurance that public health and safety would continue to be protected, and that it is unlikely that the dose from all man-made sources combined, other than medical, would be more than the 1 mSv/y (100 mrem/y) limit in LAC 33:XV.421 and 422, by submitting an analysis of possible sources of exposure;

b. has employed to the extent practical restrictions on site use according to the provisions of Subsection F of this Section in minimizing exposures at the site;

c. reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal;

d. has submitted a decommissioning plan or license termination plan (LTP) to the department indicating the licensee's intent to decommission in accordance with Subparagraph D.6.a of this Section, and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

i. participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

ii. an opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

iii. a publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues; and

e. has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.

2. The use of alternate criteria to terminate a license requires the approval of the department after consideration of the staff's recommendations that will address any comments provided by the Nuclear Regulatory Commission, the Environmental Protection Agency, and any public comments submitted in accordance with Subsection H of this Section.

H. Public Notification and Public Participation

1. Upon the receipt of an LTP or decommissioning plan from the licensee, or a proposal by the licensee for release of a site in accordance with Subsection F or G of this Section, or whenever the department deems such notice to be in the public interest, the department shall:

a. notify and solicit comments from:

i. local and state governments in the vicinity of the site and any Indian nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and

ii. the Environmental Protection Agency for cases where the licensee proposes to release a site in accordance with Subsection G of this Section; and

b. publish a notice in the *Louisiana Register* and in a forum, such as local newspapers, letters to state or local organizations, or other appropriate forum that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.

I. Minimization of Contamination

1. Applicants for licenses, other than early site permits and manufacturing licenses under 10 CFR 52 and renewals, whose applications are submitted after August 20, 1997, shall describe in the application how facility design and procedures for operation will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.

2. Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in LAC 33:XV.406 and radiological criteria for license termination in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2094 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000), LR 26:2768 (December 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005), LR 33:2180 (October 2007), LR 41:2132 (October 2015).

Chapter 4. Standards for Protection against Radiation

Subchapter C. Surveys and Monitoring

§430. General

A. Each licensee or registrant shall make, or cause to be made, surveys of areas, including the subsurface, that:

1. may be necessary for the licensee or registrant to comply with this Chapter; and
2. are reasonable under the circumstances to evaluate:
 - a. the magnitude and extent of radiation levels;
 - b. ...
 - c. the potential radiological hazards of the radiation levels and residual radioactivity detected.

B. - D. ...

E. Notwithstanding LAC 33:XV.472.A, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site shall be kept with records important for decommissioning, and such records shall be retained in accordance with LAC 33:XV.325.D.9 as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 20:653 (June 1994), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1468 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005), LR 33:2181 (October 2007), LR 41:2134 (October 2015).

Chapter 17. Licensing and Radiation Safety Requirements for Irradiators

§1755. Records and Retention Periods

A. - B.4. ...

5. records related to decommissioning of the irradiator, as required by LAC 33:XV.325.D.8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:1471 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005), LR 33:2190 (October 2007), LR 41:2134 (October 2015).

Herman Robinson, CPM
Executive Counsel

1510#035

RULE

Department of Environmental Quality Office of the Secretary Legal Division

Emission Offsets (LAC 33:III.504)(AQ354)

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 has amended the Air regulations, LAC 33:III.504.F (AQ354).

This rulemaking allows for increases of one ozone precursor (NO_x or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and the Environmental Protection Agency (EPA). However, the approved ratio must be no less stringent than as specified in Table 1 of LAC 33:III.504 (currently 1.10 to 1 for marginal ozone nonattainment areas).

In order to construct a new major stationary source or major modification in a nonattainment area, LDEQ's nonattainment new source review (NNSR) procedures under LAC 33:III.504 require the owner or operator to offset the increase in emissions of the nonattainment pollutant(s) resulting from the new construction or modification.

Currently, for all regulated pollutants other than PM_{2.5}, emission reductions claimed as offset credit must be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required. For example, increases in NO_x emissions must be offset with decreases in NO_x emissions; increases in VOC emissions must be offset with decreases in VOC emissions.

However, in ozone nonattainment areas, both NO_x and VOC are regulated as precursors to ozone. Accordingly, when a project triggers NNSR for ozone, reductions in either NO_x or VOC emissions can satisfy the requirement that offsets provide a net air quality benefit, provided they are applied at the proper ratio as determined by photochemical models such as the comprehensive air quality model with extensions (CAMx).

This rulemaking allows for increases of one ozone precursor (NO_x or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA. However, the approved ratio must be no less stringent than as specified in Table 1 of LAC 33:III.504 (currently 1.10 to 1 for marginal ozone nonattainment areas). The basis and rationale for this Rule are to allow for increases of one ozone precursor (NO_x or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA. 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 III. Air

Chapter 5. Permit Procedures

**§504. Nonattainment New Source Review (NNSR)
Procedures and Offset Requirements in
Specified Parishes**

A. - E.5. ...

F. Emission Offsets. All emission offsets approved by the department shall be surplus, permanent, quantifiable, and enforceable in accordance with LAC 33:III.Chapter 6 and shall meet the following criteria.

1. Offsets shall be required at the ratio specified in Subsection L, Table 1 of this Section unless a higher ratio is required to justify substitution of a precursor pollutant as described in Subparagraphs F.2.a and b of this Section.

2. All emission reductions claimed as offset credit shall be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required, except that:

a. direct PM_{2.5} emissions or emissions of PM_{2.5} precursors may be offset by reductions in direct PM_{2.5} emissions or emissions of any PM_{2.5} precursor, if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved SIP for a particular nonattainment area; and

b. one ozone precursor (NO_x and VOC) may be substituted for another at the ratio dictated by photochemical modeling, subject to approval of the department and the U.S. Environmental Protection Agency. This ratio shall be no less stringent than as specified in Subsection L, Table 1 of this Section.

F.3. - M.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008), LR

37:1568 (June 2011), LR 38:1232 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2766 (November 2012), LR 41:2135 (October 2015).

Herman Robinson, CPM
Executive Counsel

1510#037

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Division**

Incorporation by Reference—Test Procedures for the
Analysis of Pollutants and Effluent Guidelines and
Standards (LAC 33:IX.4901 and 4903)(WQ093ft)

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 has amended the Water Quality regulations, LAC 33:IX, 4901 and 4903 (Log #WQ093ft).

This Rule is identical to federal regulations found in *Federal Register* title 40, volume 23, part 136; volume 29 parts 401 and 405-471, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule has been promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule changes the reference dates to 40 CFR Part 136 and 40 CFR chapter I, subchapter N, parts 401, 405-471 in the LAC 33:IX, Chapter 49 to July 1, 2014. LAC 33:IX, Chapter 49 incorporates the following portions of federal regulations into the Louisiana Water Quality regulations:

1. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2014, in its entirety; and

2. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2014.

This action incorporates the recently updated federal regulations into Louisiana's Water Quality regulations, increasing the enforceability of LPDES permits that include EPA-approved analytical methods and effluent limitations guidelines. The basis and rationale for this Rule are to mirror the federal regulations. 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 IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2014, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2135 (October 2015).

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2014 are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2136 (October 2015).

Herman Robinson, CPM
Executive Counsel

1510#036

RULE

**Department of Health and Hospitals
Board of Medical Examiners**

Licensure, Certification and Practice; Occupational
Therapists and Occupational Therapy Assistants
(LAC 46:XLV.Chapters 19 and 49)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, and the Louisiana Occupational Therapy Practice Act, R.S. 37:3001-3014, the board has amended its rules governing licensure, certification and practice of occupational therapists and occupational therapy assistants, LAC 46:XLV, Chapters 19 and 49. The changes are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

**Chapter 19. Occupational Therapists and
Occupational Therapy Assistants**

Subchapter A. General Provisions

§1903. Definitions

A. As used in this Chapter the following terms shall have the meanings specified.

* * *

Occupational Therapy—the application of any activity in which one engages for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorders, congenital or developmental disabilities, or the aging process, in order to achieve optimum functioning and prevention and health maintenance. The occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Prevention, wellness and education related services shall not require a referral; however, in workers' compensation injuries preauthorization shall be required by the employer or workers' compensation insurer or provider. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician, advanced practice registered nurse, dentist, podiatrist, or optometrist licensed to practice in the state of Louisiana. Practice shall be in accordance with current standards of practice established by the American Occupational Therapy Association, Inc., and the essentials of accreditation established by the agencies recognized to accredit specific facilities and programs. Specific occupational therapy services include, but are not limited to, activities of daily living (ADL); the design, fabrication, and application of prescribed temporary splints; sensorimotor activities; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; prevocational evaluation and training; and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational, and social systems.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004), LR 41:2136 (October 2015).

Subchapter B. Qualifications for License

§1907. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. ...

2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 stat. 163) and the commissioner's regulations thereunder (8 CFR);

3. ...

4. have taken and successfully passed the licensing examination required by the board in accordance with Subchapter D of this Chapter.

5. file an application for licensure in a format prescribed by the board;

6. present proof of current certification by the NBCOT in a manner as prescribed by the board.

B. ...

C. In addition to the substantive qualifications specified in §1907.A, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§1911 to 1915 of this Chapter and the procedures and requirements for examination provided by §§1917 to 1935 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004), LR 41:2136 (October 2015).

Subchapter C. Application

§1913. Application Procedure

A. Application for licensing shall be made in a format prescribed by the board.

B. Application and instructions may be obtained from the board's web page or by personal or written request to the board.

C. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;

2. a recent photograph of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

D. All documents required to be presented to the board or its designee must be the original thereof. For good cause shown, the board may waive or modify this requirement.

E. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application. 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 to consideration of an application.

F. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 30:237 (February 2004), LR 41:2137 (October 2015).

Subchapter D. Examination

§1923. Observance of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004), repealed LR 41:2137 (October 2015).

§1925. Subversion of Examination Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), repealed LR 41:2137 (October 2015).

§1927. Finding of Subversion

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), repealed LR 41:2137 (October 2015).

§1929. Sanctions for Subversion of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2137 (October 2015).

§1933. Reporting of Examination Score

A. Applicants for licensure shall be required to authorize the NBCOT to release their test scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), LR 41:2137 (October 2015).

Subchapter E. Temporary License

§1939. License Pending Examination; Reexamination; Renewal

A. The board shall issue a temporary license to practice occupational therapy to an applicant who has completed the academic and supervised field work experience requirements specified under §1907 of this Chapter and has applied for and is waiting examination. The temporary license shall be valid for three months or until the date on which results of the qualifying examination have been known to and acted upon by the board, whichever is the longer.

B. An occupational therapist or occupational therapy assistant holding a temporary license issued under this

Section may practice occupational therapy only under the direction of an occupational therapist licensed by the board, who shall provide such on premises, close supervision of and instruction to the temporary license holder as is adequate to ensure the safety and welfare of patients. The direction and supervision required with respect to:

1. an occupational therapist holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and immediate supervision by a licensed occupational therapist for not less than two hours each week;

2. an occupational therapy assistant holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and immediate supervision by a licensed occupational therapist for not less than 25 percent of the average weekly caseload.

C. A temporary license shall be renewable only once, subject to the same terms and conditions of this Section, if the applicant has not passed the examination or if the applicant has failed to take the examination. Exceptions to the one extension rule can be given at the discretion of the board upon a request identifying extenuating circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 14:351 (June 1988), LR 41:2137 (October 2015).

§1940. Provisional Temporary Permit Pending Application for Visa

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the USCIS.

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. ...

2. 10 days following the date on which the applicant receives notice of USCIS action granting or denying the applicant's petition for an H-1 or equivalent visa; or

3. ...

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §1940.B.1, in favor of an applicant who holds a provisional temporary permit issued under this Section and who has filed a petition for H-1 or equivalent visa with the USCIS, but whose pending petition has not yet been acted on by the USCIS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:1144 (September 1993), amended LR 41:2138 (October 2015).

§1941. License Pending Reexamination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 14:351 (June 1988), repealed LR 41:2138 (October 2015).

§1942. Permit Pending Appearance before Board

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:340 (March 1993), repealed LR 41:2138 (October 2015).

Subchapter F. License Issuance, Termination, Renewal and Reinstatement

§1943. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§1907 to 1915 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of occupational therapy in the state of Louisiana upon payment of the license fees set forth in Chapter 1 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2138 (October 2015).

§1945. Expiration of License

A. Every license issued by the board under this Chapter shall expire and thereby become null, void, and to no effect each year on the last day of the month in which the licensee was born.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1499 (August 1998), LR 41:2138 (October 2015).

§1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal in a format prescribed by the board, together with the renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these rules.

B. Renewal application and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. The renewal of a license which has expired for 60 days or less may be renewed by submitting to the board an application for renewal a manner prescribed by the board together with the late renewal fee prescribed in Chapter 1 of these rules.

D. Current NBCOT registration or certification is not a prerequisite to renewal of a license to practice as an occupational therapist or occupational therapy assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 30:237 (February 2004), LR 30:423 (March 2004), LR 41:2138 (October 2015).

§1949. Reinstatement of License

A. ...

B. An application for reinstatement shall be made in a format prescribed by the board, together with the applicable late renewal and reinstatement fees prescribed in Chapter 1 of these rules.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 30:423 (March 2004), LR 41:2139 (October 2015).

§1951. Titles of Licensees

A. Any person who is issued a license as an occupational therapist under the terms of this Chapter may use the words "occupational therapist," "licensed occupational therapist," or he may use the letters "OT" or "LOT," in connection with his name or place of business to denote his licensure. In addition, any person currently licensed by the board and certified or registered by and in good standing with the NBCOT, may use the words "licensed occupational therapist registered" or "occupational therapist registered" or "LOTR" or "OTR."

B. Any person who is issued a license as an occupational therapy assistant under the terms of this Chapter may use the words "occupational therapy assistant," "licensed occupational therapy assistant," or he may use the letters "OTA" or "LOTA" in connection with his name or place of business to denote his licensure. In addition, any person currently licensed by the board and certified as an assistant by and in good standing with the NBCOT, may use the designation "licensed certified occupational therapy assistant" or "LCOTA" or "certified occupational therapy assistant" or "COTA."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), LR 41:2139 (October 2015).

§1953. Suspension and Revocation of License; Refusal to Renew

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repealed, by the Department of Health

and Hospitals, Board of Medical Examiners, LR 41:2139 (October 2015).

Subchapter H. Continuing Professional Education

§1965. Continuing Professional Education Requirement

A. Subject to the exceptions specified in §1979 of this Subchapter, to be eligible for renewal of licensure an occupational therapist or occupational therapy assistant shall, within each year during which he or she holds licensure, evidence, and document in a manner prescribed by the board, the successful completion of not less than 12 contact hours, or 1.2 continuing education units (CEUs).

B. One CEU constitutes 10 hours of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter; one continuing professional education hour is equal to one-tenth of a CEU. Twelve hours, or 1.2 CEUs, is required to meet the standards prescribed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994), amended LR 41:2139 (October 2015).

§1973. Documentation Procedure

A. Annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall accompany an applicant's annual renewal of licensure in a format prescribed by the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 41:2139 (October 2015).

§1975. Failure to Satisfy Continuing Professional Education Requirements

A. - A.3. ...

B. The license of an occupational therapist or occupational therapy assistant whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50, together with documentation and certification that:

1. the applicant has, within the preceding 12 months, completed 12 contact hours (1.2 CEUs) of qualifying continuing professional education;

2. the applicant is currently certified by the NBCOT;

or

3. the applicant has, within one year prior to making application for reinstatement, taken and successfully passed the recertification examination of the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 24:1499 (August 1998), LR 30:424 (March 2004), LR 41:2139 (October 2015).

Subpart 3. Practice

Chapter 49. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§4903. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Activities of Daily Living—the components of everyday activity.

Activity Limitation—the exclusion of certain activities, or restrictions in method of duration of performance.

Assistive/Adaptive Equipment—a special device which assists in the performance of occupations.

* * *

Client—a person, group, program, organization or community for whom the occupational therapy practitioner is providing service (American Occupational Therapy Association).

Client Care Conference—a meeting between the supervising occupational therapist, who must have previously evaluated and/or treated the client, and an occupational therapy assistant to discuss client progress or lack thereof, client issues, revision of goals, initiation, modification or termination of an individual program plan, assessment of utilization of additional resources, discharge and any other information which may affect a client's plan of care. Except when specifically required in this Chapter to be conducted by face to face conference, such meeting may be undertaken by telephone or other means of telecommunication which allows for simultaneous interactive discussion between the supervising occupational therapist and occupational therapy assistant.

* * *

Cognitive Skills—actions or behaviors a client uses to plan and manage the performance of an activity.

* * *

Consultation—process of assisting a client, agency, or other provider by identifying and analyzing issues, providing information and advice and developing strategies for current and future actions.

Context—a variety of interrelated conditions within and surrounding the client that influences performance including, but not limited to, cultural, personal, temporal, virtual, physical and social.

Coping Skills—the ability to sublimate drives, find sources of need gratification, tolerate frustration and anxiety, experience gratification, and control impulses.

Documents—the written recording of information in the client's overall record/chart and/or in the occupational therapy record/chart.

* * *

Early Intervention Setting—a natural environment, such as a child's home, child care or other community setting in which children through 3 years of age (36 months) participate.

Education—an intervention process that involves the imparting of knowledge and information about occupation and activity. This does not include school based occupational therapy.

* * *

Kinetic Activities—those activities requiring motion. It can include activities of daily living and isometric, assistive, resistive exercises.

Louisiana Occupational Therapy Practice Act or the Act—R.S. 39:3001-3014 as hereafter amended or supplemented.

Mobility—moving from one place to another during the performance of everyday activities, including skills such as getting in/or out of bed, chair, wheelchair, vehicles, using transportation, functional ambulation and transporting objects.

* * *

Occupational Therapy—the application of any activity in which one engages for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorders, congenital or developmental disabilities, or the aging process, in order to achieve optimum functioning and prevention and health maintenance. The occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Prevention, wellness and education related services shall not require referral, however, in workers' compensation injuries preauthorization shall be required by the employer or workers' compensation insurer or provider. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician, dentist, podiatrist, advanced practice registered nurse, or optometrist licensed to practice in the state of Louisiana. Practice shall be in accordance with current standards of practice established by the American Occupational Therapy Association, Inc., and the essentials of accreditation established by the agencies recognized to accredit specific facilities and programs. Specific occupational therapy services include, but are not limited to, activities of daily living (ADL); the design, fabrication, and application of prescribed temporary splints; sensorimotor activities; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; pre-vocational evaluation and training and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational, and social systems.

* * *

Occupational Performance—the act of engaging in any occupation including activities of daily living (ADL), instrumental ADLs (IADL), rest and sleep, education, work, play, leisure, and social participation.

Performance Skills—the abilities clients demonstrate in the actions they perform. The learned and developmental patterns of behavior which are the prerequisite foundations of occupation. The performance skills components include: motor skills, sensory perceptual skills, praxis skills, emotional regulation, communication and social/skills.

Periodically—occurring at regular intervals of time not less than every two weeks or the sixth visit, whichever comes first.

* * *

Self-Care Skills—activities that are oriented toward taking care of one's own body, including, but not limited to, skills such as bathing, showering, bowel and bladder management, dressing, eating, feeding, functional mobility, personal device care, hygiene/grooming, sexual activity, and toilet hygiene.

* * *

Wellness—an active process through which individuals become aware of and make choices toward a more successful existence. Wellness is more than a lack of disease symptoms. It is a state of mental and physical balance and fitness.

* * *

Work Skills—skills such as habits, workmanship, actual skills related to specific job tasks. The skills may refer to the work of the student, paid employee, retiree or volunteer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1976 (September 2002), LR 30:424 (March 2004), LR 41:2140 (October 2015).

Subchapter B. Standards of Practice

§4907. Screening

A. Occupational therapists have the responsibility to identify clients who may present problems in occupational performance that would require an evaluation.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2141 (October 2015).

§4909. Referral

A. A client is appropriately referred to occupational therapy for remediation, maintenance, or prevention when the client has, or appears to have, a dysfunction or potential for dysfunction in occupational performance or performance skills.

B. ...

C. The occupational therapist enters a case at the request of a Louisiana licensed physician, dentist, podiatrist, optometrist or advanced practice nurse practitioner; assumes full responsibility for the occupational therapy evaluation and; and, in consultation with the referring physician, dentist, podiatrist, optometrist or advanced practice nurse practitioner, establishes the appropriate type, nature, and mode of service.

D. Occupational therapists shall refer clients back to the physician, dentist, podiatrist, optometrist or advanced practice nurse practitioner when, in the judgment of the occupational therapists, the knowledge and expertise of another professional is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 41:2141 (October 2015).

§4911. Evaluation

A. Occupational therapists shall evaluate the client's performance according to the current AOTA guidelines.

B. Initial occupational therapy evaluations shall consider the client's medical, vocational, educational, activity, context, environment, social history, and personal/family goals.

C. The occupational therapy evaluation shall include assessment of the functional abilities and deficits as related to the client's needs in the following areas:

1. occupational performance: activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure, and social participation;

2. performance components: sensory perceptual skills, motor, praxis skills, emotional regulation, communication, social skills, cognitive, and psychosocial;

3. therapeutic adaptations and prevention, context and environment.

D. - H. ...

I. Occupational therapists shall communicate evaluation results to the referring physician, dentist, podiatrist, optometrist or advanced practice registered nurse and/or appropriate persons in the facility.

J. If the results of the evaluation indicate areas that require intervention by other professionals, the occupational therapist should refer the client back to the physician, dentist, podiatrist, optometrist or advanced practice registered nurse or appropriate persons in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2141 (October 2015).

§4915. Individual Program Implementation

A. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician, dentist, podiatrist, optometrist or advanced practice registered nurse licensed to practice in the state of Louisiana.

B. ...

C. Occupational therapists shall formulate and implement program modifications consistent with changes in the client's occupational performance and performance skills.

D. Occupational therapists shall periodically re-evaluate and document the client's occupational performance and performance skills.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1977 (September 2002), LR 41:2141 (October 2015).

§4917. Discontinuation of Services

A. ...

B. Occupational therapists shall document the comparison of the initial and current state of functional

abilities and deficits in occupational performance and performance skills.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2141 (October 2015).

§4919. Quality Assurance and Service Competency

A. - B. ...

C. Any occupational therapist supervising an occupational therapy assistant must have performed and documented a service competency on the occupational therapy assistant. The occupational therapist must have previously evaluated and/or treated any client being seen by an occupational therapy assistant he or she is supervising. In addition:

1. initial service competency. Following acceptance of responsibility to supervise an occupational therapy assistant, but prior to utilization of such assistant in the implementation of any client program plan or other administration of occupational therapy to a client, the supervising occupational therapist shall initially evaluate and document the occupational therapy assistant's service competency to administer all occupational therapy services which are to be performed under his or her supervision and direction. The service competency is designed to document the occupational therapy assistant's skill set;

2. annual service competency. Following such an initial evaluation the supervising occupational therapist shall thereafter annually conduct and document a service competency to determine the occupational therapy assistant's skill set;

3. documentation of service competency. Documentation of initial and annual competency shall include the date the evaluation was performed, a description of the tasks evaluated, and the name, signature and Louisiana license number of the supervising occupational therapist conducting the service competency evaluation;

4. in practice settings where an occupational therapy assistant is supervised by more than one occupational therapist, service competencies (initial and/or annual) performed by one supervising occupational therapist will satisfy the requirements of this Section for all occupational therapists supervising the occupational therapy assistant in the performance of the same services, provided that their name, signature and Louisiana license number appears on the evaluation;

5. a supervising occupational therapist shall insure such documentation is maintained by the occupational therapy assistant and at each clinic, facility or home health agency where the occupational therapy assistant practices under his or her supervision.

D. A supervising occupational therapist is responsible for and must be capable of demonstrating compliance with the requirements of this Chapter and AOTA supervision guidelines respecting supervision of occupational therapy assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270.B.(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1977 (September 2002), LR 41:2142 (October 2015).

§4923. Reserved.

§4925. Supervision of Occupational Therapy Assistants

A. - D.3. ...

E. In addition to the terms and conditions specified in §4919 and §4925.A-D, the following additional requirements are applicable to an occupational therapy assistant's administration of occupational therapy under the supervision of an occupational therapist.

1. In any clinical setting, other than specified by §4925.E.3:

a. an occupational therapy assistant with less than one year of practice experience:

i. shall receive close client care supervision in each clinical setting for not less than one of every four, or 25+ percent, of those clients to whom he or she has administered occupational therapy during an average weekly case load;

ii. in addition, a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy;

b. an occupational therapy assistant with more than one but less than two years of practice experience:

i. shall receive close client care supervision in each clinical setting for not less than one of every 10, or 10 percent, of those clients seen during an average weekly case load;

ii. in addition, a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy;

c. an occupational therapy assistant with more than two years of practice experience:

i. shall receive a client care conference with respect to each client to whom the occupational therapy assistant administers occupational therapy.

2. School System, Long-Term Psychiatric and-Nursing Home Facility Settings. In addition to the requirements prescribed in §4925.E.1, clients in school system, long-term psychiatric or nursing home facility settings shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once a month or every sixth treatment session.

3. - 3.c....

4. Early Intervention Setting. The terms and conditions prescribed by §4925.E.1 shall not be applicable to an early intervention setting. An occupational therapy assistant may assist in implementation of a client program plan in an early intervention setting under the supervision of an occupational therapist provided all the following terms, conditions and restrictions of this Chapter, except §4925.E.1, are strictly observed:

a. an occupational therapy assistant shall have had not less than two years practice experience in providing occupational therapy prior to administering occupational therapy in an early intervention setting;

b. each client in an early intervention setting to whom an occupational therapy assistant administers occupational therapy shall be re-evaluated or treated by the

supervising occupational therapist not less frequently than the earlier of once a month or every sixth treatment session; and

c. a client care conference shall occur not less frequently than the earlier of once every month or every sixth treatment session to discuss all clients to whom the occupational therapy assistant has administered occupational therapy in an early intervention setting. Such conference shall be documented and maintained by the supervising occupational therapist in a supervisory log.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270.B.(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:340 (March 1993), amended LR 28:1977 (September 2002), LR 41:2142 (October 2015).

Subchapter C. Unauthorized Practice, Prohibitions and Causes for Administrative Action

§4927. Unauthorized Practice

A. No individual shall engage in the practice of occupational therapy in this state in the absence of a current license or permit duly issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2143 (October 2015).

§4929. False Representation of Licensure Prohibited [Formerly §1955]

A. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, shall use, in connection with his name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapy assistant," "licensed occupational therapy assistant," or the letters, "OT," "LOT," "OTA," "LOTA," or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist or an occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as an occupational therapist or an occupational therapy assistant.

B. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, who is not currently certified or registered by and in good standing with the NBCOT shall use, in connection with his name or place of business, the words "occupational therapist registered," "licensed occupational therapist registered," "certified occupational therapy assistant," or "licensed certified occupational therapy assistant" or the letters, "OTR," "LOTR," or "COTA," or "LCOTA" or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist registered or a certified occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as such.

C. Whoever violates the provisions of this Section shall be fined not more than \$500 or be imprisoned for not more than six months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:424 (March 2004), repromulgated LR 41:2143 (October 2015).

§4931. Suspension and Revocation of License; Refusal to Issue or Renew; Unprofessional Conduct [Formerly 4921]

A. The board may refuse to issue or renew, may suspend or revoke, or may impose probationary conditions on any occupational therapy or occupational therapy assistant license, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or likely to endanger the health, welfare, or safety of the public.

B. As used herein and R.S. 37:3011, *unprofessional conduct* by an occupational therapist or occupational therapy assistant shall mean:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered;
2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of occupational therapy;
3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a license to practice occupational therapy;
4. providing false testimony before the board or providing false sworn information to the board;
5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;
6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;
7. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;
8. cognitive or clinical incompetency;
9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of occupational therapy practice in this state;
10. knowingly performing any act which in any way assists an unlicensed person to practice occupational therapy, or having professional connection with or lending one's name to an illegal practitioner;
11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to the occupational therapist or occupational therapy assistant;
12. interdiction by due process of law;
13. inability to practice occupational therapy with reasonable competence, skill, or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination an inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness and ability to practice occupational therapy with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of occupational therapy as defined by the Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice occupational therapy in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate;

17. violation of the code of ethics adopted and published by the American Occupational Therapy Association, Inc. (AOTA); or

18. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3001-3014.

C. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3011.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:885 (September 1991), repromulgated LR 41:2143 (October 2015).

Cecilia Mouton, M.D.
Executive Director

1510#031

RULE

Department of Health and Hospitals Board of Medical Examiners

Physician Licensure and Practice; Telemedicine
(LAC 46:XLV.408 and Chapter 75)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana state Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, as amended by Act 442 of the 2014 Regular Session of the Louisiana Legislature, the board has amended its rules governing the use of telemedicine as to patients who are located in this state, LAC 46:XLV.408 and 7501 et seq. The changes are set forth below.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter H. Restricted Licensure, Permits

§408. Telemedicine Permit Qualifications, Procedure, Issuance, Expiration and Renewal

A. Requirement for Permit/Qualifications. A physician who does not maintain a physical practice location in this state shall not engage in the practice of medicine in this state via telemedicine, as defined in Chapter 75 of these rules, unless he or she holds a telemedicine permit issued by the board. To be eligible for a telemedicine permit an applicant shall:

1. - 2. ...

3. have completed a board-approved application and satisfied the applicable fee.

B. - C. ...

D. Application. Application for a telemedicine permit shall be made in a format approved by the board and shall include:

1. ...

2. a description of how telemedicine will be used and the primary location(s) from which it will be utilized by the applicant;

3. an affirmation acceptable to the board, in a format prescribed by the board, that the applicant has an arrangement with one or more physicians, who maintain a physical practice location in this state, to accept patients on referral and for follow-up care.

4. criminal history record information;

5. such other information, acknowledgments and documentation as the board may require; and

6. a fee of \$300. The board may waive such fee in favor of an applicant who advises the board in writing that his or her use of telemedicine in this state shall be limited to the provision of voluntary, gratuitous medical services.

E. - F.3.b. ...

G. Permit Expiration, Renewal. A telemedicine permit shall expire annually on the expiration date stated thereon or the last day of the month in which the licensee was born, whichever is the later, unless renewed by the submission of a renewal application containing such information as the board may require, together with a renewal fee of \$200.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, 1276.1 and 1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1532 (August 2009), amended 41:2144 (October 2015).

Subpart 3. Practice

Chapter 75. Telemedicine

Subchapter A. General Provisions

§7501. Scope of Subchapter

A. The rules of this Subchapter govern the use of telemedicine by physicians licensed to practice medicine in this state and those who hold a telemedicine permit issued by the board to practice medicine in this state via telemedicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1532 (August 2009), amended 41:2144 (October 2015).

§7503. Definitions

A. As used in this Chapter and in §408 of these rules, unless the content clearly states otherwise, the following words and terms shall have the meanings specified.

* * *

In-Person Visit—a face-to-face evaluation conducted by a physician who is at the same physical location as the patient.

* * *

Physical Practice Location in this State—a clinic, facility, office or other location physically located in this state, where the physician spends the majority of his or her time practicing medicine.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or a telemedicine permit duly issued by the board.

Physician-Patient Relationship—physicians utilizing telemedicine shall establish a proper *physician-patient relationship* by:

- a. verifying the identity of the individual requesting treatment. Appropriate contact and identifying information shall be made part of the medical record;
- b. conducting an appropriate examination. The examination does not require an in-person visit if the technology is sufficient to provide the physician the pertinent clinical information reasonably necessary to practice at an acceptable level of skill and safety;
- c. establishing a diagnoses through the use of accepted medical practices e.g., history, mental status, appropriate diagnostic and laboratory testing;
- d. discussing the diagnoses and risks and benefits of various treatment options;
- e. insuring the availability for appropriate follow-up care; and
- f. creating and/or maintaining a medical record.

Telemedicine—the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using interactive telecommunication technology that enables a physician and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither a telephone conversation, an electronic mail message between a physician and a patient, or a true consultation constitutes *telemedicine* for the purposes of this Part.

Telemedicine Permit—a permit issued by the board in accordance with §408 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015).

§7505. Patient Relationship; Standard of Care;

Location of Participants

A. Physician-Patient Relationship. Telemedicine shall not be utilized by a physician with respect to any individual located in this state in the absence of a physician-patient relationship.

B. Standard of Care. The practice of medicine by telemedicine, including the issuance of any prescription via electronic means shall be held to the same prevailing and usually accepted standards of medical practice as those in traditional (face-to-face) settings. An online, electronic or written mail message, or a telephonic evaluation by questionnaire or otherwise, does not satisfy the standards of appropriate care.

C. Location of Participants. A physician using telemedicine may be at any location at the time the services are provided. A patient receiving medical services by telemedicine may be in any location in this state at the time that the services are received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015).

§7507. Prerequisite Conditions; Disclosures

A. The practice of medicine is deemed to occur at the location of the patient. Therefore, no physician shall utilize telemedicine to provide medical services to patients located in this state unless the physician:

1. holds an unrestricted Louisiana medical license and maintains a physical practice location within this state; or
2. holds a telemedicine permit and executes an affirmation, as describe in §408 of these rules, that he or she has an arrangement with one or more other physicians who maintain a physical practice location in this state to provide for referrals and follow-up care.

B. A physician utilizing telemedicine with respect to patients located in this state shall have:

1. access to the patient's medical record;
2. if required by the standard of care applicable to the diagnosis or treatment of the patient's complaints in a traditional (face-to-face) setting, the ability:
 - a. to utilize peripherals (such as otoscope and stethoscope);
 - b. to obtain diagnostic testing;
 - c. if necessary in the physician's judgment, to access a patient presenter to assist with the telemedicine encounter; and
 - d. to conduct an in-person visit, or refer the patient to another physician for that purpose.

C. Disclosures. Prior to utilizing telemedicine a physician shall insure that the following disclosures have been made to the patient and documented in the medical record. Such disclosures need not be made or documented more than once, except to update the information provided:

1. the name, Louisiana medical license number and contact information [address, telephone number(s)] of the physician;
2. the physician's specialty or area of practice;
3. how to receive follow-up and emergency care;
4. how to obtain copies of medical records and/or insure transmission to another medical provider;
5. how to receive care in the event of a technology or equipment failure; and
6. notification of privacy practices concerning individually identifiable health information, consistent with state and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015).

§7509. Patient Records

A. Patient records shall be:

1. created and maintained for every telemedicine visit according to the same standards of care as in an in-person visit;

2. confidential and subject to all applicable state and federal laws and regulations relative to privacy and security of health information;

3. accessible by a patient and the physician consistent with all state and federal laws and regulations; and

4. made available to the patient or a physician to whom the patient may be referred within a reasonable period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2146 (October 2015).

§7510. Privacy and Security

A. Only secure communication technology shall be used for telemedicine. At a minimum, telemedicine technology shall comply with all state and federal laws and regulations for medical/health information privacy and security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, 41:2146 (October 2015).

§7513. Prohibitions

A. The following prohibitions apply to physicians who practice medicine in this state via telemedicine.

B. Preamble—Controlled Substances. While in most instances the board believes that an in-person visit is required prior to the issuance of a prescription for any controlled substance, provided the physician can examine the patient *via* telemedicine technologies sufficient to make a diagnosis, controlled substances may be prescribed by telemedicine within the limitations of Subsection 7513C.

C. No physician shall utilize telemedicine:

1. for the treatment of non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules;

2. for the treatment of obesity, as set forth in §§6901-6913 of the board's rules;

3. to authorize or order the prescription, dispensation or administration of any controlled substance unless;

a. the physician has had at least one in-person visit with the patient at a physical practice location in this state within the past year;

b. the prescription is issued for a legitimate medical purpose;

c. the prescription is in conformity with the same standard of care applicable to an in-person visit; and

d. the prescription is permitted by and in conformity with all applicable state and federal laws and regulations.

4. Exceptions. The board may grant an exception to the limitations of §7513.C in an individual case that is supported by a physician's written application stating how and why he or she proposes to deviate from §7513.C. If an exception is granted by the board it shall be stated in writing

and specify the manner and extent to which the physician shall be authorized to depart from §7513.C.

D. A physician who practices telemedicine by virtue of a telemedicine permit issued by the board shall not:

D.1. - E.

F. No physician shall utilize telemedicine to provide care to a patient who is physically located outside of this state, unless the physician possesses lawful authority to do so by the licensing authority of the state in which the patient is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009), amended LR 41:2146 (October 2015).

Cecilia Mouton, M.D.
Executive Director

1510#017

RULE

Department of Health and Hospitals Board of Medical Examiners

Physician Practice; Unprofessional Conduct
(LAC 46:XLV.7603)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board has amended its rules governing unprofessional conduct of physicians, LAC 46:XLV.7603. The proposed changes require that any physician holding herself or himself out as a specialist have completed accredited residency or fellowship training in the claimed area of specialization, and limit self-treatment and treatment of immediate family members with controlled substances to cases of an emergency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 76. Definition of Enforcement Terms

Subchapter B. Unprofessional Conduct

§7603. Unprofessional Conduct

A. - A.8.b. ...

9. *Failing to Adhere to Accepted Practices; Misleading Practices*—a physician shall:

a. practice within the scope of his or her education, training and experience; and

b. not hold himself or herself out as a specialist in an area of medical practice unless the physician has successfully completed a residency or fellowship training program, which is accredited by the American Council on Graduate Medical Education of the American Medical Association, the American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.

10.a. - 10.f. ...

11. *Self-Treatment; Treatment of Immediate Family Members*—except in cases of emergency, physicians shall

not prescribe controlled substances for themselves or their immediate family members. As respects a physician, *immediate family members* include the physician's spouse, children, parents, and siblings.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:336 (January 2011), amended LR 41:2146 (October 2015).

Cecilia Mouton, M.D.

Executive Director

1510#018

RULE

Department of Health and Hospitals Board of Pharmacy

Electronic Signature on Facsimile Prescription (LAC 46:LIII.2511)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby amends §2511 of Chapter 25, Prescriptions, Drugs, and Devices, of its rules, to allow pharmacies to accept, for a limited period of time, a facsimile prescription bearing an electronic signature of the prescriber.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2511. Prescriptions

A. - C.5.c. ...

d. The provisions of this Section notwithstanding, a prescription for a medication not listed as a controlled substance which is received in a pharmacy by facsimile and which bears an electronic signature of the prescriber shall be construed as a validly-formatted prescription; however, this temporary allowance shall expire at midnight on December 31, 2016.

C.6. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003), effective January 1, 2004, LR 41:98 (January 2015), LR 41:2147 (October 2015).

Malcolm J. Broussard

Executive Director

1510#050

RULE

Department of Health and Hospitals Board of Pharmacy

Remote Access to Medical Orders (LAC 46:LIII.1503 and 1527)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Chapter 15, Hospital Pharmacy, of its rules by drafting a new §1527, Remote Access to Medical Orders, to allow hospital pharmacies to enable their own pharmacists to remotely access the hospital's dispensing information system from any location for the purpose of processing medical orders.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists Chapter 15. Hospital Pharmacy

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

* * *

Remote Processing Services—Repealed.

Remote Processor—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, LR 33:1132 (June 2007), LR 39:1282 (May 2013), amended LR 40:2256 (November 2014), effective January 1, 2015, LR 42:2147 (October 2015).

§1527. Remote Access to Medical Orders

A. Notwithstanding any provision of rules to the contrary, nothing shall prohibit a Louisiana-licensed pharmacist who is an employee of or under contract with a hospital pharmacy in Louisiana from accessing that pharmacy's dispensing information system from a location other than the pharmacy in order to process prescription drug orders or medical orders, but only when all of the following conditions are satisfied:

1. the pharmacy establishes controls to protect the privacy and security of confidential records;
2. the pharmacist does not engage in the receiving of written prescription drug orders or medical orders or the maintenance of prescription drug orders or medical orders; and
3. no part of the pharmacy's dispensing information system is duplicated, downloaded, or removed from the pharmacy's dispensing information system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 42:2147 (October 2015).

Malcolm J. Broussard
Executive Director

1510#048

RULE

Department of Health and Hospitals Board of Pharmacy

Remote Processor Permit (LAC 46:LIII.1143, 2431, 2433, 2435 and 2437)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Section 1143 and adopts Subchapter D—Remote Processor Pharmacy, of Chapter 24, that will enable the establishment of remote processor pharmacy sites within the state.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LIII. Pharmacists

Chapter 11. Pharmacies

Subchapter D. Off-Site Services

§1143. Remote Processing of Medical Orders or Prescription Drug Orders

- A. - A.2.a. ...
- b. Repealed.
- B. - C.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1132 (June 2007), amended LR 38:1240 (May 2012), LR 39:313 (February 2013), LR 41:2148 (October 2015).

Chapter 24. Limited Service Providers

Subchapter D. Remote Processor Pharmacy

§2431. Purpose

A. The purpose of this Subchapter is to establish standards for the operation and regulation of remote processor pharmacies to be located within the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2148 (October 2015).

§2433. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

On-Site Pharmacy—a permitted pharmacy which utilizes remote processing services from a remote processor pharmacy.

Remote Processing Services—the processing of a medical order or prescription drug order by one permitted pharmacy on behalf of another permitted pharmacy, including:

- a. receipt, interpretation, or clarification of an order;
- b. data entry and information transfer;
- c. interpretation of clinical data;

- d. performance of drug utilization review; and
- e. provision of drug information concerning a patient's drug therapy; provided, however, that remote processing does not include the physical preparation or physical transfer of drugs.

Remote Processor—a pharmacy holding a remote processor pharmacy permit and provides remote processing services for another permitted pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2148 (October 2015).

§2435. General Requirements

A. Authority and Limitations

1. A remote processor pharmacy permit shall authorize the permit holder to engage in remote processing services.

2. A remote processor pharmacy permit shall not authorize the procurement or possession of any prescription medications or any controlled substances.

3. The holder of a remote processor pharmacy permit shall not be eligible to acquire a Louisiana controlled dangerous substance license or a federal registration from the U.S. Drug Enforcement Administration.

B. Licensing Procedure

1. A person or other entity intending to operate a remote processor pharmacy shall complete the application form supplied by the board, and then submit it with any required attachments and the application fee to the board.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. A person or other entity who submits a false or fraudulent application shall be deemed to have violated R.S. 37:1241(A)(2) and shall be subject to disciplinary action by the board.

4. If determined appropriate by the board, the applicant may be required to meet with a committee of the board or an agent of the board prior to the issuance of the permit.

5. Regardless of the date issued, the pharmacy permit shall expire on December 31 of every year. No person or other entity may operate a remote processor pharmacy with an expired permit; the continued operation of a remote processor pharmacy with an expired permit shall substantiate a violation of R.S. 37:1241(A)(12).

C. Maintenance of Permit

1. A remote processor pharmacy permit shall be valid only for the person or other entity to whom it is issued, and it shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall the permit be valid for any premises other than the physical location for which it was issued.

2. A duplicate or replacement permit shall be issued upon the written request of the permit holder and payment of the required fee. A duplicate or replacement permit shall be marked as such, and it shall not serve or be used as an additional or second permit.

D. Closure of Permit

1. When the owner of the permit intends to close the remote processor pharmacy permanently, the owner's

managing officer and the pharmacist-in-charge shall be accountable to the board for the proper closure of the pharmacy in compliance with Section 1133 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2148 (October 2015).

§2437. Standards of Practice

A. Environmental Standards

1. The remote processor pharmacy shall be of sufficient size and shall contain sufficient fixtures, equipment, and supplies commensurate with the nature and scope of practice for that pharmacy.

2. The pharmacy shall be well-lighted, well ventilated and in compliance with the Louisiana *Sanitary Code*.

3. The pharmacy shall be secured by either a physical barrier with suitable locks and/or an electronic barrier to detect entry by any unauthorized personnel.

4. Prescription and other patient healthcare information shall be maintained in a manner that protects the integrity and confidentiality of such information.

B. Staffing Requirements

1. The pharmacist-in-charge shall be a Louisiana-licensed pharmacist who is accountable to the board for compliance with the provisions of Section 1105 of the board's rules.

2. The pharmacist-in-charge shall assemble and manage a staff of appropriately-credentialed people as necessary to perform its work in a safe manner.

3. For those pharmacies using pharmacy interns, pharmacy technicians, and pharmacy technician candidates, the staffing ratios cited in the board's rules are applicable to those types of personnel.

C. Operations

1. The remote processor pharmacy shall comply with the provisions of Section 1143 of the board's rules.

2. The remote processor shall comply with the recordkeeping provisions of Section 1123 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2149 (October 2015).

Malcolm J. Broussard
Executive Director

1510#049

RULE

Department of Health and Hospitals Board of Pharmacy

Telepharmacy Services Permit
(LAC 46:LIII.Chapter 24)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has adopted Subchapter C, Telepharmacy Services

of Chapter 24, Limited Service Providers, of its rules to create a new classification of pharmacy permit that will enable the establishment of telepharmacy dispensing sites.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter C. Telepharmacy Services

§2421. Purpose

A. As market forces continue to adversely impact community pharmacies, some pharmacies have or will close permanently. In certain parts of the state, such closures create critical access issues for citizens in need of pharmacy services.

B. As the pharmacy workforce continues to evolve, with changing patterns of distribution of the workforce, certain parts of the state have experienced a shortage of pharmacists, which can adversely impact access to pharmacist care.

C. In an effort to improve access to pharmacist care and pharmacy services, the board has determined it appropriate to establish standards for the operation and regulation of telepharmacy services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2149 (October 2015).

§2423. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

Central Pharmacy—a permitted pharmacy in Louisiana that supervises a telepharmacy dispensing site.

Still Image Capture—a specific image captured electronically from a video or other image capture device.

Store and Forward—a video or still image record which is saved electronically for future review.

Telepharmacy Dispensing Site—a permitted pharmacy supervised by a central pharmacy that offers pharmacy services using a telepharmacy system.

Telepharmacy System—a system that monitors the dispensing of prescription drugs and provides for related drug use review and patient counseling services by an electronic method which shall include the use of the following types of technology:

- a. audio and video;
- b. still image capture; and
- c. store and forward.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2149 (October 2015).

§2425. Telepharmacy Dispensing Site

A. General Requirements

1. At the time of its opening, there shall be no other pharmacies licensed by the board within 20 miles (driving distance) of the location of the telepharmacy dispensing site.

2. A telepharmacy dispensing site permit shall authorize the permit holder to procure and possess prescription and non-prescription drugs and devices and:

a. hold such items for immediate administration directly to a patient pursuant to an order from a lawful prescriber;

b. dispense such items to a patient for later use upon the order of a practitioner with prescriptive authority; or

c. distribute such items to another entity with lawful authority to procure and possess such items.

3. In the event the telepharmacy dispensing site intends to procure and possess any controlled substances, that pharmacy shall first obtain a Louisiana controlled dangerous substance license as well as the federal registration from the U.S. Drug Enforcement Administration.

4. The telepharmacy dispensing site shall operate using a telepharmacy system under the control of its supervising central pharmacy.

5. A central pharmacy may supervise no more than two telepharmacy dispensing sites, and all such sites must be located within the state of Louisiana.

6. The minimum staffing requirement for a telepharmacy dispensing site shall be a Louisiana-licensed certified pharmacy technician with at least two years of experience as a Louisiana-licensed certified pharmacy technician and with demonstrated proficiency in operating the telepharmacy system used in the telepharmacy dispensing site.

7. A pharmacist shall approve each prescription before it is taken away from the telepharmacy dispensing site.

B. Licensing Procedure

1. A person or other entity intending to operate a telepharmacy dispensing site shall complete the application form supplied by the board, and then submit it with any required attachments and the application fee to the board.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. A person or other entity who submits a false or fraudulent application shall be deemed to have violated R.S. 37:1241(A)(2) and shall be subject to disciplinary action by the board.

4. If determined appropriate by the board, the applicant may be required to meet with a committee of the board or an agent of the board prior to the issuance of the permit.

5. Regardless of the date issued, the pharmacy permit shall expire on December 31 of every year. No person or other entity may operate a telepharmacy dispensing site with an expired permit; the continued operation of a telepharmacy dispensing site with an expired permit shall substantiate a violation of R.S. 37:1241(A)(12).

6. In the event a new community pharmacy opens at a location within 20 miles (driving distance) of the telepharmacy dispensing site, then the board shall not renew the telepharmacy dispensing site's pharmacy permit. The board shall notify the central pharmacy supervising the telepharmacy dispensing site of the new pharmacy operating within 20 miles (driving distance) of the telepharmacy dispensing site, and of the requirement for the telepharmacy dispensing site to close permanently on or before the expiration date of the telepharmacy dispensing site's current renewal of its pharmacy permit. The closure shall be accomplished in compliance with the provisions of Section 1133 of the board's rules. In lieu of permanent closure, the

telepharmacy dispensing site may elect to apply for and complete the conversion of its permit to a community pharmacy permit prior to the expiration date of the telepharmacy permit.

C. Maintenance of Permit

1. A telepharmacy dispensing site permit shall be valid only for the person or other entity to whom it is issued, and it shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall the permit be valid for any premises other than the physical location for which it was issued.

2. A duplicate or replacement permit shall be issued upon the written request of the permit holder and payment of the required fee. A duplicate or replacement permit shall be marked as such, and it shall not serve or be used as an additional or second permit.

D. Closure of Permit

1. When the owner of the permit intends to close the telepharmacy dispensing site permanently, the owner's managing officer and the pharmacist-in-charge shall be accountable to the board for the proper closure of the pharmacy in compliance with Section 1133 of the board's rules.

2. Unless approved by the board in advance, all remaining inventory and records shall be transferred to the central pharmacy supervising that telepharmacy dispensing site.

E. Standards of Practice

1. Environmental standards:

a. the prescription department shall consist of an area at least 300 square feet in size; this space shall be restricted to authorized personnel only and not accessible to the general public;

b. the prescription department shall contain sufficient fixtures, equipment, and supplies commensurate with the nature and scope of practice for that pharmacy;

c. the prescription department shall include a sink with a hot and cold water supply, exclusive of restroom facilities, with approved sewage disposal;

d. all areas where drugs and devices are stored shall be dry, well-lighted, well ventilated, and maintained at temperatures which will ensure the integrity of drugs prior to their dispensing as stipulated by the United States Pharmacopeia and/or manufacturer's or distributor's product labeling unless otherwise indicated by the board;

e. the prescription department shall be secured by a physical barrier with suitable locks and a monitored alarm system capable of detecting unauthorized entry;

f. prescription and other patient healthcare information shall be maintained in a manner that protects the integrity and confidentiality of such information; and

g. the dispensing site shall be configured and equipped to sustain optimal operation of all the technological components of the telepharmacy system.

2. Minimum Staffing Requirements

a. The pharmacist-in-charge of the supervising central pharmacy shall be the pharmacist-in-charge of the telepharmacy dispensing site, and this requirement shall operate as an exception to the provisions of §1105.A.2 and §1105.K of the board's rules. However, the pharmacist-in-charge shall comply with the remaining provisions of Section 1105 of the board's rules.

b. The telepharmacy dispensing site does not require the personal presence of a pharmacist, but it is permissible for a pharmacist to practice in that site.

c. In the absence of a pharmacist, the site shall be staffed by one, and only one, Louisiana-licensed certified pharmacy technician. The technician present at the telepharmacy dispensing site shall be included with the other personnel at the supervising central pharmacy when calculating the ratio of pharmacists to technicians.

d. A pharmacy intern may not practice at a telepharmacy dispensing site.

e. Additional clerical personnel may also be present at the site.

3. Operational Standards

a. The telepharmacy dispensing site shall comply with the provisions of Chapters 11, 25, 27, and 29 of the board's rules except when this Subchapter grants exceptions or imposes more stringent requirements.

b. The telepharmacy dispensing site shall be connected to its supervising central pharmacy using the telepharmacy system.

c. In the event of an interruption in the proper operation of the telepharmacy system, the telepharmacy dispensing site must immediately cease operations. No prescription shall be dispensed during the interruption, and further, the staff shall post a sign at the entrance advising the public of an estimated date or time of resumption of services.

d. The dispensing of prescriptions shall be construed as completed at the central pharmacy; therefore, the telepharmacy dispensing site shall use the central pharmacy's dispensing information system.

e. The telepharmacy system shall permit prescription labels to be generated from the central pharmacy or the telepharmacy dispensing site:

i. new prescriptions may be received and entered at the central pharmacy with a label printed at the telepharmacy dispensing site; or

ii. new prescriptions received at the telepharmacy dispensing site may be entered by the technician with all verification, utilization review, and final check the responsibility of the pharmacist at the central pharmacy.

f. As part of the final check, the pharmacist shall verify the source container, prescription medication, and prescription label against the prescription form, using the technology in the telepharmacy system.

g. A pharmacist shall counsel the patient or patient's agent for all new prescriptions and refills, using the technology in the telepharmacy system.

h. The pharmacist-in-charge shall be responsible for routine inspections of the telepharmacy dispensing site. The policies and procedures shall identify the inspection criteria to be monitored. Each inspection shall be conducted no later than 30 days after the previous inspection. The inspection reports detailing the findings of each inspection shall be retained for at least two years, and further, shall be readily retrievable upon request by the board or its agent.

4. Recordkeeping Requirements

a. The dispensing information system shall be capable of recording the names or initials of the pharmacist responsible for final verification of the prescription as well

as the technician assisting in the dispensing process, and to print those identities on the prescription label.

b. Prescriptions filled at the telepharmacy dispensing site shall be distinguishable on records from those filled at the central pharmacy

c. Records of activities at the telepharmacy dispensing site shall be distinguishable from the records of activities at the central pharmacy.

d. Telepharmacy dispensing sites holding controlled substances shall maintain a perpetual inventory of controlled dangerous substances and drugs of concern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2149 (October 2015).

Malcolm J. Broussard
Executive Director

1510#051

RULE

Department of Health and Hospitals Board of Veterinary Medicine

License Procedures (LAC 46:LXXXV.303)

The Louisiana Board of Veterinary Medicine adopts LAC 46:LXXXV.303.E in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518(A)(9) and 37:1533. The board is vested with the authority to regulate the practice of veterinary medicine to insure the health, welfare, and protection of the animals and the public.

The Rule is adopted to require a faculty license when a veterinarian faculty member engages in the direct (hands-on) practice of veterinary medicine on an animal owned by a member of the public, whether by referral from a private practice veterinarian, or by direct patient solicitation/access without referral, as part of his employment at the school. Administrative regulatory accountability is required to insure the health, welfare, and protection of the animals and the public.

This Rule regarding the veterinary faculty license shall become effective for the 2016-2017 annual license period (beginning October 1, 2016), and for every annual license renewal period thereafter.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarian

Chapter 3. Licensure Procedures

§303. Examinations

A. - D. ...

E. Veterinary Faculty License

1. Pursuant to section 1533 of the Veterinary Practice Act, a faculty license to practice veterinary medicine issued by the board to a veterinarian member of the faculty at LSU-SVM is required when the conduct extends to the direct (hands-on) practice of veterinary medicine on an animal owned by the public whether by referral from another

veterinarian, or by direct patient access without referral, as part of his employment at the school. The licensed faculty veterinarian shall be ultimately responsible for the proper veterinary care of the animal and held administratively accountable by the board per its regulatory authority.

2. A faculty license shall not be used to practice veterinary medicine beyond the holder's employment at the school. A faculty license cannot be used to practice veterinary medicine at a private or another public facility where veterinary care is provided, or to practice veterinary medicine at an emergency veterinary care facility. However, an active license to practice veterinary medicine issued by the board to a qualified faculty veterinarian may be used by the holder for all aspects of his employment and practice at the school.

3. Further criteria for issuance of a faculty license is when the applicant:

a. provides proof of graduation from a school of veterinary medicine with a degree of doctor of veterinary medicine or its equivalent and:

i. has possessed an active license in good standing issued by another state, territory, or district in the United States at some time within the five years prior to the date of application for a faculty license; or

ii. has a current certificate or other documentation indicating successful completion of a residency or program in a specialty field of veterinary medicine accepted by the board at the time of application for a faculty license; or

iii. has a current certification, or is in the process of attaining certification, in a specialty area of veterinary medicine by the American Board of Veterinary Specialty Colleges, or its international equivalents accepted by the board;

b. prior to commencement of practice at the school, the submission of the board approved application for a faculty license and the payment of the initial application fee of \$100 for issuance of the license to the board are applicable; and thereafter, for annual renewal, the submission of the renewal application with the payment of the annual renewal fee of \$100 are required.

4. The faculty license shall be subject to cancellation for any of the reasons and under the same conditions and costs set forth in R.S. 37:1526 and the board's rules, or if the holder permanently moves out of Louisiana, or leaves the employment of LSU-SVM.

5. Pending issuance of a faculty license or an active license, an intern, who is a graduate of a board-approved school of veterinary medicine, may practice veterinary medicine at LSU-SVM, provided the practice is limited to such duties as intern, and is under the supervision of a veterinarian who holds a faculty license issued by the board (or a faculty veterinarian with an active license issued by the board). *Supervision*, as used in this rule, shall mean the supervising, faculty licensed veterinarian (or a faculty veterinarian with an active license issued by the board) is on the premises or available by telephone for prompt consultation and treatment. The supervising, faculty licensed veterinarian (or a faculty veterinarian with an active license issued by the board) shall be ultimately responsible for and held accountable by the board for the duties, actions, or work performed by the intern.

6. For purposes of this rule, an *intern* is an employee of LSU-SVM, who is a graduate from a school of veterinary medicine with a degree of doctor of veterinary medicine or its equivalent as accepted by the board, and is undergoing training at the school for a one year period, and rotates in various specialties during such period. For purposes of this rule, a *resident* is an employee of LSU-SVM, who is a graduate from a school of veterinary medicine with a degree of doctor of veterinary medicine or its equivalent as accepted by the board, and has satisfied the one-year internship requirement, or was in private practice for at least one year, and is thereafter working towards a certification in a specialty area of veterinary medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 8:144 (March 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), LR 19:1327 (October 1993), LR 23:964 (August 1997), LR 25:2232 (November 1999), LR 28:1982 (September 2002), LR 38:1592 (July 2012), LR 40:308 (February 2014), LR 41:2151 (October 2015).

Wendy Parrish
Executive Director

1510#011

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Case Management
Licensing Standards
(LAC 48:I.4929)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.4929 in the Medical Assistance Program as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 49. Case Management

§4929. General Waiver

A. - C. ...

D. DHH Office of Aging and Adult Services Case Management

1. Agencies that provide case management and/or support coordination services to the DHH Office of Aging and Adult Services (OAAS) waiver programs recipients shall be exempt from licensure as a case management agency for the provision of case management services. This licensure exemption shall only be to the extent that the agency uses only DHH/OAAS trained and certified case managers to provide case management services to OAAS waiver programs in lieu of DHH licensure. Such agencies serving other populations and programs, in addition to those waiver

programs operated by OAAS, shall obtain and maintain DHH licensure.

2. OAAS certification requirements shall ensure:

- a. the quality of services and the care, well-being, and protection of the clients receiving services; and
- b. that the delivery of case management services does not afford less quality or protection than the licensing provisions of this Chapter.

3. OAAS shall provide an attestation of meeting these requirements on an annual basis or as required by the DHH Health Standards Section.

4. OAAS case management and support coordination services will still be subject to the support coordination standards of participation rule for OAAS waiver programs, the program integrity/SURS (fraud/abuse) rules, and other applicable Medicaid rules and regulations.

E. Department of Children and Family Services Case Management

1. The Department of Children and Family Services (DCFS) shall be exempt from licensure as a case management agency for the provision of targeted case management services rendered by foster care and family services workers. The licensure exemption shall only be to the extent that DCFS uses trained and certified employees to provide case management services in lieu of DHH licensure.

2. DCFS certification requirements shall ensure:

- a. the quality of services and the care, well-being, and protection of the clients receiving services; and
- b. that the delivery of case management services does not afford less quality or protection than the licensing provisions of this Chapter.

3. DCFS shall provide an attestation of meeting these requirements on an annual basis.

4. DCFS case management services will still be subject to the Medicaid targeted case management rules, the program integrity/SURS (fraud/abuse) rules and other applicable Medicaid rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:380-451.

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 Health and Hospitals, Office of the Secretary, LR 20:888 (August 1994), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2152 (October 2015).

Kathy H. Kliebert
Secretary

1510#083

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Emergency Medical Transportation Services
Ambulance Licensing Standards
(LAC 48:I.Chapter 60)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.6001, 6037, and 6057 in the Medical Assistance Program as

authorized by R.S. 36:254, R.S. 40:1231 and R.S. 40:1235.2. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 60. Emergency Medical Transportation Services

Subchapter A. General Provisions

§6001. Definitions

* * *

Appropriate Facility—an institution generally equipped to provide the needed hospital or skilled nursing care for the illness or injury involved. In the case of a hospital, a physician or a physician specialist is available to provide the necessary care required to treat the patient's condition.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:466 (March 2009), amended LR 42:2153 (October 2015).

Subchapter B. Provider Responsibilities

§6037. Medical Protocol

A. - B. ...

C. These protocols shall include protocols for the care of:

1. - 3. ...
4. suspected cardiogenic chest pain or suspected myocardial infarction;
5. stroke or suspected stroke;
6. - 9. ...
10. unconsciousness or altered mental status;
11. suspected drug overdose;
12. treatment induced unconsciousness, altered mental status, hypotension, or respiratory depression from physician ordered or protocol appropriate paramedic administered narcotics;
13. respiratory failure or respiratory arrest;
14. active seizure;
15. hospital patient destination;
16. pre-hospital diversion;
17. patient with advanced directives;
18. mass casualty incidents;
19. injuries from weapons of mass destruction;
20. pediatric specific care; and
21. traumatic injuries.

D. The EMS service shall adopt the protocols established by the Louisiana Emergency Response Network or develop an agency-specific protocol with specific language related to the transportation of the following patients.

1. Acute stroke patients shall be transported to the closest appropriate comprehensive stroke center, primary stroke center, or acute stroke ready hospital, or to the closest appropriate hospital if the patient exhibits a compromise of airway, breathing, or circulatory function.

2. Patients suffering an acute ST elevation myocardial infarction (STEMI) shall be transported to the closest appropriate STEMI receiving center or, when appropriate, a STEMI referring center.

3. Repealed.
- E. All protocols shall:
 1. meet or exceed the requirements of these licensing standards and all applicable federal, state, and local laws;
 2. be consistent with the January 2009 National EMS Education Standards scope of practice and the rulings of the Louisiana EMS Certification Commission;
 3. be reviewed annually by the licensed agency's medical director, or the parish medical society; and
 4. be submitted to the department no more than 30 days after the implementation of the protocol.
- F. Ambulance services are accountable for assuring compliance with applicable protocols by their personnel. Exceptions to these protocols must be reviewed on a case-by-case basis by the physician medical director.

G. Ambulance services must produce, and provide to all personnel, a policy and procedures manual governing the service's operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1234.E.1 and 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:476 (March 2009), amended LR 42:2153 (October 2015).

Subchapter C. Emergency Vehicles—Ground Transportation

§6057. Ambulances

- A. - B.5.l. ...
 - m. one roll per crew member, chemical sealant tape (not duct tape); and
- B.5.n. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:480 (March 2009), amended LR 42:2154 (October 2015).

Kathy H. Kliebert
Secretary

1510#084

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing
and**

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Residential Options Waiver
(LAC 50:XXI.Chapters 161-169)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.Chapters 161-169 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers**

Subpart 13. Residential Options Waiver

Chapter 161. General Provisions

§16101. Introduction

A. The Residential Options Waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to enhance the long term services and supports available to individuals with developmental disabilities. These individuals would otherwise require an intermediate care facility for persons with intellectual disabilities (ICF/ID) level of care.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2154 (October 2015).

§16103. Program Description

A. The ROW is designed to utilize the principles of self-determination and to supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, ROW includes a self-direction option which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options which best meet the individual's needs and preferences;
2. meets the highest standards of quality and national best practices in the provision of services; and
3. ensures health and safety through a comprehensive system of participant safeguards.
4. Repealed.

C. All ROW services are accessed through the support coordination agency of the participant's choice.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator.

D. All services must be prior authorized and delivered in accordance with the approved POC.

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and will not exceed the approved ICF/ID ICAP rate established for that individual.

1. When the department determines that it is necessary to adjust the ICF/ID ICAP rate, each waiver participant's annual service budget shall be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

F. No reimbursement for ROW services shall be made for a participant who is admitted to an inpatient setting.

G. 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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2154 (October 2015).

§16105. Participant Qualifications

A. In order to qualify for services through the ROW, an individual must be offered a ROW opportunity and meet all of the following criteria:

1. have a developmental disability as specified in the Louisiana Developmental Disability Law and determined through the developmental disabilities system entry process;
2. meet the requirements for an ICF/ID level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;
3. meet the financial eligibility requirements for the Louisiana Medicaid Program;
4. be a resident of Louisiana; and
5. be a citizen of the United States or a qualified alien.

B. Assurances are required that the health, safety, and welfare of the individual can be maintained in the community with the provision of ROW services.

1. - 3.c. Repealed.

C. Justification must be documented in the OCDD-approved POC that the ROW services are appropriate, cost effective, and represent the least restrictive environment for the individual.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2155 (October 2015).

§16106. Money Follows the Person Rebalancing Demonstration

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health and Hospitals. The MFP demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for people with intellectual disabilities (ICF/ID).

B. Participants must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Participants with a developmental disability must:
 - a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital or ICF/ID bed for at least three consecutive months; and
 - b. be Medicaid eligible, eligible for state developmental disability services, and meet an ICF/ID level of care.

2. The participant or his/her responsible representative must provide informed consent for both transition and participation in the demonstration.

C. Participants in the demonstration are not required to have a protected date on the developmental disabilities request for services registry (RFSR).

D. All other ROW provisions apply to the Money Follows the Person Rebalancing Demonstration.

E. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

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 42:2155 (October 2015).

§16107. Programmatic Allocation of Waiver Opportunities

A. The developmental disabilities request for services registry, hereafter referred to as “the registry,” shall be used to evaluate individuals for ROW opportunities and to fill waiver opportunities for persons with developmental disabilities, except for those specific opportunities to be provided to persons who are described in Paragraph B.1-5 of this Section, who are not on the registry.

1. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a support coordination agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for the level of care determination.

2. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next individual on the registry shall be notified, as stated in Paragraph B.1 of this Section, and the process continues until an eligible individual is assigned the waiver opportunity.

3. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a ROW opportunity, this person’s name will be removed from the registry.

B. ROW opportunities will be offered to the following individuals:

1. persons who meet the ICF/ID level of care and are being serviced through the OCDD host home contracts;

2. persons who meet the ICF/ID level of care, and who need HCBS due to a health and/or safety crisis situation (crisis diversion):

a. requests for crisis diversion shall be made through OCDD. To be considered for a crisis diversion opportunity, the individual must need long-term supports, not temporary or short-term supports;

b. determination of priority for a crisis diversion ROW opportunity will be considered by OCDD for the individual who is eligible for services and meets one of the following criteria:

- i. homeless;

- ii. at imminent risk of losing current residential placement;
 - iii. referred by the judicial system;
 - iv. referred by child, adult, or elderly protective authorities;
 - v. without a caregiver and cannot adequately care for self;
 - vi. with a caregiver who can no longer provide care; or
 - vii. whose needs cannot be met within a community living situation;
3. children who:
- a. are from birth to age 18;
 - b. reside in a nursing facility;
 - c. meet the high-need requirements for a nursing facility level of care, as well as the ROW level of care requirements;
 - d. participate in the MFP Rebalancing Demonstration; and
 - e. have parents or legal guardians who wish to transition them to a home and community-based residential services waiver;
4. persons who reside in a Medicaid-enrolled ICF/ID and wish to transition to a home and community-based residential services waiver through a voluntary ICF/ID bed conversion process;
5. persons who wish to transition from a supports and services center into a ROW opportunity;
6. adults in nursing facilities (NFs) who wish to transition to home and community-based residential services, and who meet the level of care (LOC) that qualifies them for ROW eligibility based on their RFSR protected date on a first come, first served basis; and
7. persons residing in ICFs/ID who wish to transition to a home and community-based residential services setting and are eligible based on their RFSR protected date on a first come, first served basis.

C. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the state of Louisiana.

C.1. - E. 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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2155 (October 2015).

§16109. Admission Denial or Discharge Criteria

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

- 1. The individual does not meet the financial eligibility requirements for the Medicaid Program.
- 2. The individual does not meet the requirements for an ICF/ID level of care.
- 3. The individual does not meet developmental disability system eligibility.

4. The individual is incarcerated or under the jurisdiction of penal authorities, courts or state juvenile authorities.

5. The individual resides in another state.

6. The health and welfare of the individual cannot be assured through the provision of ROW services.

7. The individual fails to cooperate in the eligibility determination process or in the development of the POC.

8. Repealed.

B. Participants shall be discharged from the ROW if any of the following conditions are determined:

1. loss of Medicaid financial eligibility as determined by the Medicaid Program;

2. loss of eligibility for an ICF/ID level of care;

3. loss of developmental disability system eligibility;

4. incarceration or placement under the jurisdiction of penal authorities, courts, or state juvenile authorities;

5. change of residence to another state;

6. admission to an ICF/ID or nursing facility with the intent to stay and not to return to waiver services;

7. the health and welfare of the participant cannot be assured through the provision of ROW services in accordance with the participant's approved POC;

8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant; or

9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days;

a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility, or ICF/ID.

i. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days.

10. continuity of services is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2156 (October 2015).

Chapter 163. Covered Services

§16301. Assistive Technology and Specialized Medical Equipment and Supplies

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) are equipment, devices, controls, appliances, supplies, and services which enable the participant to:

- 1. have life support;
- 2. address physical conditions;
- 3. increase ability to perform activities of daily living;
- 4. increase, maintain or improve ability to function more independently in the home and/or community; and
- 5. increase their ability to perceive, control, or communicate.

B. AT/SMES services provided through the ROW include the following services:

1. evaluation of participant needs;
2. customization of the equipment or device;
3. coordination of necessary therapies, interventions or services;
4. training or technical assistance on the use and maintenance of the equipment or device for the participant or, where appropriate, his/her family members, legal guardian or responsible representative;
5. training or technical assistance, when appropriate, for professionals or other service providers, employers, or other individuals who are substantially involved in the participant's major life functions;
6. all service contracts and warranties included in the purchase of the item by the manufacturer; and
7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device.

a. Separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective.

C. Approval of AT/SMES services through ROW is contingent upon the denial of a prior authorization request for the item as a Medicaid State Plan service and demonstration of the direct medical, habilitative, or remedial benefit of the item to the participant.

1. Items reimbursed in the ROW may be in addition to any medical equipment and supplies furnished under the Medicaid State Plan.

1.a. - 7. Repealed.

D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and have no direct medical or remedial benefit to the participant are excluded from coverage.

2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid State Plan, Medicare, or any other third party insurance is excluded from coverage.

3. For adults over the age of 20 years, specialized chairs, whether mobile or travel, are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid Program as a assistive devices or durable medical equipment provider and must meet all of the applicable vendor standards and requirements for manufacturing, design and installation of technological equipment and supplies;

2. furnish written documentation of authorization to sell, install, and/or repair technological equipment and supplies from the respective manufacturer of the designated equipment and supplies; and

3. provide documentation of individual employees' training and experience with the application, use, fitting, and repair of the equipment or devices which they propose to sell or repair;

a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2156 (October 2015).

§16303. Community Living Supports

A. Community living supports (CLS) are services provided to assist participants to achieve and maintain the outcomes of increased independence, productivity and inclusion in the community by utilizing teaching and support strategies. CLS may be furnished through self-direction or through a licensed, enrolled agency.

B. Community Living Supports are related to acquiring, retaining and improving independence, autonomy and adaptive skills. CLS may include the following services:

1. ...
2. socialization skills training;
 - a. Repealed.
3. cognitive, communication tasks, and adaptive skills training; and
 - a. Repealed.
4. development of appropriate, positive behaviors.
 - a. - b. Repealed.

C. Place of Service. CLS services are furnished to adults and children who live in a home that is leased or owned by the participant or his family. Services may be provided in the home or community, with the place of residence as the primary setting.

D. Community living supports may be shared by up to three participants who may or may not live together, and who have a common direct service provider. In order for CLS services to be shared, the following conditions must be met.

1. An agreement must be reached among all of the involved participants, or their legal guardians, regarding the provisions of shared CLS services.

2. The health and welfare of each participant must be assured through the provision of shared services.

3. Services must be reflected in each participant's approved plan of care and based on an individual-by-individual determination.

4. A shared rate must be billed.

E. Service Exclusions

1. ...

2. Routine care and supervision that is normally provided by the participant's spouse or family, and services provided to a minor by the child's parent or step-parent, are not covered.

3. CLS services may not be furnished in a home that is not leased or owned by the participant or the participant's family.

4. Participants may not live in the same house as CLS staff.

5. Room and board or maintenance, upkeep and improvement of the individual's or family's residence is not covered.

6. Community living supports shall not be provided in a licensed respite care facility.

a. - d. Repealed.

7. Community living supports services are not available to individuals receiving the following services:

- a. shared living;
- b. home host; or
- c. companion care.

8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:

- a. day habilitation;
- b. prevocational;
- c. supported employment;
- d. respite out-of-home services; or
- e. transportation-community access.

F. ...

1. Family members who provide CLS services must meet the same standards as providers who are unrelated to the participant.

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2157 (October 2015).

§16305. Companion Care

A. Companion care services assist the participant to achieve and/or maintain the outcomes of increased independence, productivity and inclusion in the community. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides services in the participant's home and lives with the participant as a roommate. Companion care services may be furnished through self-direction or through a licensed provider organization as outlined in the participant's POC. This service includes:

1. providing assistance with all of the activities of daily living as indicated in the participant's POC; and
2. community integration and coordination of transportation services, including medical appointments.
3. Repealed.

B. Companion care services can be arranged by licensed providers who hire companions, or services can be self-directed by the participant. The companion is a principal care provider who is at least 18 years of age, who lives with the participant as a roommate, and provides services in the participant's home.

1. - 2. Repealed.

C. Provider Responsibilities

1. The provider organization shall develop a written agreement as part of the participant's POC which defines all of the shared responsibilities between the companion and the participant. The written agreement shall include, but is not limited to:

a. - c. ...

2. Revisions to this agreement must be facilitated by the provider and approved by the support team. Revisions may occur at the request of the participant, the companion, the provider or other support team members.

3. The provider is responsible for performing the following functions which are included in the daily rate:

- a. arranging the delivery of services and providing emergency services as needed;
- b. making an initial home inspection of the participant's home, as well as periodic home visits as required by the department;
- c. contacting the companion a minimum of once per week or as specified in the participant's POC; and
- d. providing 24-hour oversight and supervision of the companion care services, including back-up for the scheduled and unscheduled absences of the companion.

4. The provider shall facilitate a signed written agreement between the companion and the participant.

a. - b. Repealed.

D. Companion Responsibilities

1. The companion is responsible for:

- a. participating in and abiding by the POC;
- b. ...
- c. purchasing his/her own food and personal care items.

E. Service Limits

1. The provider agency must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) as authorized by the POC. Relief staff for scheduled and unscheduled absences is included in the provider agency's rate.

F. Service Exclusions

1. Companion care is not available to individuals receiving the following services:

- a. respite care service—out of home;
- b. shared living;
- c. community living supports; or
- d. host home.

2. - 2.d. Repealed.

G. Provider Qualifications. The provider agency must be licensed as a personal care attendant agency.

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 for Citizens with Developmental Disabilities, LR 33:2444 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2158 (October 2015).

§16307. Day Habilitation Services

A. Day habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of an individual's home. These activities shall promote independence, autonomy and assist the participant with developing a full life in his community. The primary focus of day habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the

individualized skills and include the intended outcome for the participant.

2. ...

3. As an individual develops new skills, training should progress along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day habilitation services shall:

1. focus on enabling participants to attain maximum skills;

2. be coordinated with any physical, occupational or speech therapies listed in the participant's POC;

3. - 4. ...

a. services are based on a one-half day unit of service and on time spent at the service site by the participant;

b. the one-half day unit of service requires a minimum of 2.5 hours;

c. two one-half day units may be billed if the participant spends a minimum of 5 hours at the service site;

d. any time less than 2.5 hours of services is not billable or payable; and

e. no rounding up of hours is allowed.

C. The provider is responsible for all transportation from the agency to all work sites related to the provision of service.

1. Transportation to and from the service site is offered and billable as a component of the day habilitation service; however, transportation is payable only when a day habilitation service is provided on the same day.

2. - 4.c. Repealed.

D. Participants may receive more than one type of vocational/habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

E. Service Exclusions

1. Time spent traveling to and from the day habilitation program site shall not be included in the calculation of the total number of day habilitation service hours provided per day.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day, but only for the period of time specified in the POC.

2. Transportation-community access will not be used to transport ROW participants to any day habilitation services.

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; or

c. respite care services—out of home.

F. Provider Qualifications. Providers must be licensed as an adult day care agency.

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 for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 42:2158 (October 2015).

§16309. Dental Services

A. Dental services are available to adult participants over the age of 21 as of component of the ROW. Covered dental services include:

1. diagnostic services (radiographs, complete series including bitewing);

2. preventative services (comprehensive oral examination, new patient or periodic oral examination patient of record); and

3. prophylaxis-adult (cleanings).

4. - 10. Repealed.

B. Service Exclusion. Participants must first access dental services covered under the Medicaid State Plan before utilizing dental services through the Residential Options Waiver.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Examiners for Dentistry for the specific dental services in all specialty areas provided to the participant.

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 for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2159 (October 2015).

§16311. Environmental Accessibility Adaptations

A. Environmental accessibility adaptations are physical adaptations to the participant's home or vehicle which must be specified in the POC as necessary to enable the participant to integrate more fully into the community and to ensure his/her health, welfare and safety.

1. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the participant.

B. Environmental adaptation services to the home and vehicle include the following:

1. assessments to determine the types of modifications that are needed;

2. training the participant and appropriate direct care staff in the use and maintenance of devices, controls, appliances and related items;

3. repair of all equipment and/or devices, including replacement of batteries and other items that contribute to the ongoing maintenance of the adaptation(s); and

4. all service contracts and warranties which the manufacturer includes in the purchase of the item.

C. In order to accommodate the medical equipment and supplies necessary to assure the welfare of the participant, home accessibility adaptations may include the following:

1. - 4. ...

D. Home accessibility adaptations may be applied to rental or leased property only under the following conditions:

1. the participant is renting or leasing the property; and

2. written approval is obtained from the landlord and OCDD.

E. - F.4.g. ...

5. Home modifications shall not be paid for in the following residential services:

- a. host home; or
- b. shared living settings which are provider owned or leased.

G. Vehicle adaptations are modifications to an automobile or van that is the waiver participant's primary means of transportation in order to accommodate his/her special needs.

1. The modifications may include the installation of a lift or other adaptations to make the vehicle accessible to the participant or for him/her to drive.

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services, or

b. to purchase or lease a vehicle.

2. Vehicle modifications which are of general utility and are not of direct medical or remedial benefit to the participant are not covered in the ROW.

3. - 4. ...

I. Provider Responsibilities

1. The environmental accessibility adaptation(s) must be delivered, installed, operational and reimbursed in the POC year in which it was approved.

a. - b. Repealed.

2. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.

a. Repealed.

3. Vehicle modifications must meet all of the applicable standards of manufacture, design and installation for all adaptations to the vehicle.

4. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates from manufacturers.

J. Provider Qualifications. In order to participate in the Medicaid Program, providers must meet the following qualifications.

1. Providers of environmental accessibility adaptations for the home must be registered through the Louisiana State Licensing Board for Contractors as a home improvement contractor.

a. In addition, these providers must:

i. meet the applicable state and/or local requirements governing their licensure or certification; and

ii. comply with the applicable state and local building or housing code standards governing home modifications.

b. The individuals performing the actual service (building contractors, plumbers, electricians, carpenters, etc.) must also comply with the applicable state and/or local requirements governing individual licensure or certification.

2. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the Structural Vehicle Modifier category.

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 for Citizens with Developmental Disabilities, LR 33:2446 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2159 (October 2015).

§16313. Host Home

A. Host home services assist participants in meeting their basic adaptive living needs and offer direct support where required. Participants are afforded a welcoming, safe and nurturing family atmosphere in a family home environment in which the participant may receive supports, services and training in accordance with the POC. Host home services take into account compatibility, including individual interests, age, needs for privacy, supervision and support needs. These services are provided in a private home by a contractor of the host home agency who lives in the home, and either rents or owns the residence. The contractor utilizes specific teaching strategies to encourage independence and autonomy when required as a part of the participant's POC.

1. Repealed.

B. Host home services include:

1. assistance with the activities of daily living and adaptive living needs;

2. assistance to develop leisure interests and daily activities in the home setting;

3. assistance to develop relationships with other members of the household;

4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and

5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

C. Host home provider agencies oversee and monitor the host home contractor to ensure the availability, quality, and continuity of services as specified in the ROW manual. Host home provider agencies are responsible for the following functions:

1. arranging for a host home;

2. making an initial inspection and periodic inspections of the host home and upon any significant changes in the host family unit or significant events which may impact the participant; and

3. providing 24-hour oversight and supervision of host home services including emergency services and back-up for the scheduled and nonscheduled absences of the contractor;

a. Repealed.

D. Host home contractors are responsible for:

1. assisting with the development of the participant's POC and complying with the provisions of the plan;

2. maintaining and providing data to assist in the evaluation of the participant's personal goals;

3. maintaining adequate records to substantiate service delivery and producing such records upon request;

4. undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the host home setting; and

5. immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being.

6. - 10. Repealed.

E. ...

F. Host home contractors serving adults are required to be available for daily supervision, support needs or emergencies as outlined in the adult participant's POC based on medical, health and behavioral needs, age, capabilities and any special needs.

1. Host home contractors that serve adults who have been interdicted must ensure that services are furnished in accordance with the legal requirements of the interdiction.

G. Host home contractors who are engaged in employment outside the home must adjust these duties to allow the flexibility needed to meet their responsibilities to the participant.

H. Host Home Capacity. Regardless of the funding source, a host home contractor may not provide services for more than two participants in the home.

I. Service Exclusions

1. Separate payment will not be made for community living supports since these services are integral to, and inherent in, the provision of host home services.

2. Separate payment will not be made for the following residential service models if the participant is receiving host home services:

- a. respite care services-out of home;
- b. shared living;
- c. shared living-conversion; or
- d. companion care.

3. ...

J. Provider Qualifications

1. All agencies must:

- a. have experience in delivering therapeutic services to persons with developmental disabilities;
- b. have staff who have experience working with persons with developmental disabilities;
- c. screen, train, oversee and provide technical assistance to the host home contractors in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services appropriate for persons with developmental disabilities; and
- d. provide on-going assistance to the host home contractors so that all HCBS requirements are met.

2. Agencies serving children must be licensed by the Department of Children and Family Services as a Class "A" Child Placing Agency.

3. Agencies serving adults must be licensed by the Department of Health and Hospitals as a provider of substitute family care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2160 (October 2015).

§16315. Intensive Community Supports

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 for Citizens with Developmental Disabilities, LR 33:2448 (November 2007) , repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2161 (October 2015).

§16317. Nursing Services

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse within the scope of the State's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid State Plan.

1. These services require an individual nursing service plan and must be included in the plan of care.

2. The nurse must submit updates of any changes to the individual's needs and/or the physician's orders to the support coordinator every 60 days.

3. Repealed.

B. Nursing consulting services include assessments and health related training and education for participants and caregivers.

1. - 2. ...

3. The health related training and education service is the only nursing service which can be provided to more than one participant simultaneously. The cost of the service is allocated equally among all participants.

C. Service Requirement. Participants over the age of 21 years must first exhaust all available nursing visits provided under the Medicaid State Plan prior to receiving services through the waiver program.

D. Provider Qualifications

1. In order to participate in the Medicaid Program, the provider agency must possess a current, valid license as a home health agency or, if under the ROW shared living conversion model, be an enrolled shared living services agency with a current, valid license as a supervised independent living agency.

E. Staffing Requirements

1. ...

2. The RN or the LPN must possess one year of service delivery experience to persons with intellectual disabilities defined under the following criteria:

a. full-time experience gained in advanced and accredited training programs (i.e. masters or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with developmental disabilities (i.e. intermediate care facilities for persons with developmental disabilities);

c. paid, full-time nursing experience in multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for

persons with dual diagnosis—mental illness and developmental disabilities); or

d. paid, full-time nursing experience in specialized educational, vocational and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

3. Two years of part-time experience with a minimum of 20 hours per week may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

- a. volunteer nursing experience; or
- b. experience gained by caring for a relative or friend 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, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2161 (October 2015).

§16319. One Time Transitional Services

A. One-time transitional services are one-time, set-up services to assist individuals in making the transition from an ICF/ID to their own home or apartment in the community of their choice.

1. - 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

1. nonrefundable security deposits that do not include rental payments;
2. set up fees for utilities;
3. essential furnishings to establish basic living arrangements, including:
 - a. bedroom and living room furniture;
 - b. table and chairs;
 - c. window blinds; and
 - d. food preparation items and eating utensils;
4. set-up/deposit fee for telephone service;
5. moving expenses; and
6. health and safety assurances including:
 - a. pest eradication; or
 - b. one-time cleaning prior to occupancy.

C. Service Limits

1. One-time transitional expenses are capped at \$3,000 per person over a participant's lifetime.

D. Service Exclusions

1. One-time transitional services may not be used to pay for:

- a. housing, rent or refundable security deposits; or
- b. furnishings or setting up living arrangements that are owned or leased by a waiver provider.

2. One-time transitional services are not available to participants who are receiving host home services.

3. One-time transitional services are not available to participants who are moving into a family member's home.

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 for Citizens with Developmental Disabilities, LR 33:2449 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 42:2162 (October 2015).

§16321. Personal Emergency Response System (PERS)

A. Personal emergency response system (PERS) is a system connected to the participant's telephone that incorporates an electronic device which enables the participant to secure help in an emergency. The device can be worn as a portable "help" button and when activated, a response center is contacted.

B. Participant Qualifications. PERS services are available to individuals who:

1. ...
2. are unable to use other communication systems due to experiencing difficulty in summoning emergency assistance; or
3. do not have 24-hour direct supervision.

C. PERS services include rental of the electronic device, initial installation, training the participant to use the equipment, and monthly maintenance fees.

D. Service Exclusions

1. Separate payment will not be made for shared living services.

E. Provider Qualifications

1. The provider must be authorized by the manufacturer to install and maintain equipment for personal emergency response systems.

2. The provider shall be in compliance with all applicable federal, state, and local regulations governing the operation of personal emergency response systems including staffing requirements for the response center.

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 for Citizens with Developmental Disabilities, LR 33:2249 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2162 (October 2015).

§16323. Prevocational Services

A. Prevocational services are activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals of the program include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.

1. Prevocational services should focus on teaching concepts and skills such as:

a. - e. ...

2. The primary focus of prevocational services is the acquisition of employment related skills based on the individual's vocational preferences and goals.

a. - b. ...

B. In the event participants are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985.

1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:

a. conduct 6-month formal reviews to determine the suitability of this service rather than supported employment services;

b. - c. ...

C. The provider is responsible for all transportation from the agency to all vocational sites related to provision of services.

1. Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.

a. Repealed.

D. Service Limits

1. Services shall be limited to no more than eight hours per day, five days per week.

2. Services are based on a one-half day unit of service and time spent at the service site by the participant.

a. The one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;

b. two one-half day units may be billed in one day if the participant spends a minimum of 5 hours at the service site;

c. any time less than 2.5 hours of service is not billable or payable; and

d. no rounding up of hours is allowed.

3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.

3.a. - 5.a. Repealed.

E. Service Exclusions

1. Prevocational services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or

c. respite care services—out of home.

3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

5. Transportation-community access shall not be used to transport ROW participants to any prevocational services.

F. Provider Qualifications. Providers must have a current, valid license as an adult day care center.

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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 42:2162 (October 2015).

§16325. Professional Services

A. Professional services are direct services to participants, based on need, that that may be utilized to increase the individual's independence, participation and productivity in the home, work and community. Service intensity, frequency and duration will be determined by individual need. Professional services must be delivered with the participant present and in accordance with approved POC.

1. - 8.a. Repealed.

B. Professional services include the services provided by the following licensed professionals:

1. occupational therapists;

2. physical therapists;

3. speech therapists;

4. registered dietitians;

5. social workers; and

6. psychologists.

C. Professional services may be utilized to:

1. perform assessments and/or re-assessments specific to professional disciplines to accomplish the desired outcomes for the participant and to provide recommendations, treatment, and follow-up;

a. - b. Repealed.

2. provide training or therapy to a participant and/or natural and formal supports necessary to either develop critical skills that may be self-managed by the participant or maintained according to the participant's needs;

3. intervene in and stabilize a crisis situation (behavioral or medical) that could result in the loss of home and community-based services, including the development, implementation, monitoring, and modification of behavioral support plans;

a. Repealed.

4. provide consultative services and recommendations;

5. provide necessary information to the participant, family, caregivers, and/or team to assist in planning and implementing services or treatment;

6. provide caregiver counseling for the participant's natural, adoptive, foster, or host family members in order to develop and maintain healthy, stable relationships among all caregivers, including family members, to support meeting the needs of the participant;

a. emphasis is placed on the acquisition of coping skills by building upon family strengths; and

b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver; and

7. provide nutritional services, including dietary evaluation and consultation with individuals or their care provider.

a. Services are intended to maximize the individual's nutritional health.

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and *Guidelines for Support Planning*.

D. Service Exclusions

1. Professional services may only be furnished and reimbursed through ROW when the services are medically

necessary, or have habilitative or remedial benefit to the participant.

a. Repealed.

2. Participants who are participating in ROW and are up to the age of 21 must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

a.- d. Repealed.

E. Provider Qualifications

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

a. have a current, valid license from the appropriate governing board of Louisiana for that profession; and

b. possess one year of service delivery experience with persons with developmental disabilities.

c. In addition, the specific service delivered must be consistent with the scope of the license held by the professional.

2. Provider agency enrollment of professional services.

a. The following provider agencies may enroll to provide professional services:

i. a Medicare certified free-standing rehabilitation center;

ii. a licensed home health agency;

iii. a supervised independent living agency licensed by the department to provide shared living services; or

iv. a substitute family care agency licensed by the department to provide host home services.

b. Enrolled provider agencies may provide professional services by one of the following methods:

i. employing the professionals; or

ii. contracting with the professionals.

c. Provider agencies are required to verify that all professionals employed by or contracted with their agency meet the same qualifications required for individual practitioners as stated in §16325.E.1.a-c.

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time experience in specialized service/treatment settings for persons with developmental disabilities (i.e. ICFs/ID);

c. paid, full-time experience multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis – mental illness and developmental disability); or

d. paid, full-time experience in specialized educational, vocational, and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

e. Two years of part-time experience with a minimum of 20 hours per week of the qualifying work experience activities may be substituted for one year of full-time experience.

4. The following activities do not qualify for the professional's required service delivery experience:

a. volunteer experience; or

b. experience gained by caring for a relative or friend 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, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2163 (October 2015).

§16327. Respite Care Services—Out of Home

A. Respite care services—out of home are supports and services provided for the relief of those unpaid caregivers who normally provide care to participants who are unable to care for themselves. These services are furnished on a short-term basis in a licensed respite center.

1. A licensed respite care facility shall insure that community activities are available to the participant in accordance with his approved POC, including transportation to and from these activities.

a. The rate for respite care services—out of home includes the transportation costs for the community activities.

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities or other community activities he/she would typically participate in if not in the center-based respite facility.

B. Service Limits

1. Respite care services are limited to 720 hours per participant, per POC year.

2. Requests for an extension of the service limit are subject to the department's established approval process and require proper justification and documentation.

C. Service Exclusions

1. ...

2. Respite care services-out of home may not be billed for participants receiving the following services:

a. shared living;

b. companion care; or

c. host home.

d. Repealed.

D. Provider Qualifications. The provider must possess a current, valid license as a respite care center 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, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2164 (October 2015).

§16329. Shared Living Services

A. Shared living services assist the participant in acquiring, retaining and improving the self-care, adaptive and leisure skills needed to reside successfully in a shared home setting within the community. Services are chosen by the participant and developed in accordance with his/her

goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. A shared living services provider delivers supports which include:

- a. 24-hour staff availability;
- b. assistance with activities of daily living included in the participant's POC;
- c. a daily schedule;
- d. health and welfare needs;
- e. transportation;
- f. any non-residential ROW services delivered by the shared living services provider; and
- g. other responsibilities as required in each participant's POC.

2. - 3. Repealed.

B. An ICF/ID may elect to permanently relinquish its ICF/ID license and all of its Medicaid Facility Need Review approved beds from the total number of Certificate of Need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. In order to convert, provider request must be approved by the department and by OCDD.

2. ICF/ID residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. If choosing ROW services, persons may select any ROW services and provider(s) based upon freedom of choice.

C. Shared Living Options

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/ID for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/ID on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/ID used for the shared living conversion option must meet the department's operational, programming and quality assurances of health and safety for all participants.

c. The provider of shared living services is responsible for the overall assurances of health and safety for all participants.

d. The provider of shared living conversion option may provide nursing services and professional services to participants utilizing this residential services option.

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/ID providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/ID.

b. The shared living waiver home must be either a home owned or leased by the waiver participants or a home owned or leased and operated by a licensed shared living provider.

c. The shared living waiver home must meet department's operational, programming and quality assurances for home and community-based services.

d. The shared living provider is responsible for the overall assurances of health and safety for all participants.

D. Service Exclusions

1. ...

2. Payments shall not be made for environmental accessibility adaptations when the provider owns or leases the residence.

3. Participants may receive one-time transitional services only if the participant owns or leases the home and the service provider is not the owner or landlord of the home.

a. - d. Repealed.

4. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

5. Transportation-community access services cannot be billed or provided for participants receiving shared living services, as this is a component of shared living services.

6. The following services are not available to participants receiving shared living services:

- a. community living supports;
- b. respite care services;
- c. companion care;
- d. host home; or
- e. personal emergency response system.

E. Provider Qualifications. Providers must be approved by the department and have a current, valid license as a supervised independent living agency.

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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2164 (October 2015).

§16331. Specialized Medical Equipment and Supplies

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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2165 (October 2015).

§16333. Support Coordination

A. Support coordination services are provided to all ROW participants to assist them in gaining access to needed waiver services, as well as needed medical, social, educational and other services, regardless of the funding source for the services. Support coordination will provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing case management services.

1. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved POC.

2. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's POC.

B. Support coordinators are responsible for providing assistance to participants who choose the self-direction option with their review of the *Self-Direction Employer Handbook* and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

C. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the *Medicaid Targeted Case Management Manual*.

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 for Citizens with Developmental Disabilities, LR 33:2453 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2165 (October 2015).

§16335. Supported Employment

A. Supported employment provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain employment.

1. - 3. Repealed.

B. Supported employment services include:

1. ...

2. services that assist a participant to develop and operate a micro-enterprise;

a. This service consists of:

i. assisting the participant to identify potential business opportunities;

ii. assistance in the development of a business plan, including potential sources of business financing and other assistance in developing and launching a business;

iii. identification of the supports that are necessary in order for the participant to operate the business; and

iv. ...

3. enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business;

4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and

5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.

C. Service Limits

1. The required minimum number of service hours per day per participant is as follows for:

a. individual placement services, the minimum is one hour;

b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;

c. an enclave, the minimum is 2.5 hours; and

d. a mobile work crew, the minimum is 2.5 hours.

2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.

3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.

D. Service Exclusions

1. ...

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. Supported employment services cannot be billed for the same time as any of the following services:

a. community living supports;

b. professional services except direct contacts needed to develop a behavioral management plan; or

c. respite care services—out of home.

4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.

5. ...

a. Travel training for the purpose of teaching the participant how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. The following incentive payments, subsidies or unrelated vocational training expenses are excluded from coverage in supported employment services:

a. - c. ...

7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

8. No rounding up of hours is allowed.

E. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an adult day care center.

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 for Citizens with Developmental Disabilities, LR 33:2453 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2166 (October 2015).

§16337. Transportation-Community Access

A. Transportation-community access services enable participants to gain access to waiver and other community services, activities and resources. These services are necessary to increase independence, productivity, community inclusion and to support self-directed employees benefits as outlined in the participant's POC. Transportation-community access shall be offered as documented in the participant's approved POC.

1. The participant must be present to receive this service.

2. Whenever possible, the participant must utilize the following resources for transportation:

a. - b. ...

B. Service Limits

1. Community access trips are limited to three per day and must be arranged for geographic efficiency.

2. Greater than three trips per day require approval from the department or its designee.

a. Repealed.

C. Service Exclusions

1. Transportation services offered through ROW shall not replace the medical transportation services covered under the Medicaid State Plan or transportation services provided as a means to get to and from school.

2. Separate payment will not be made for transportation-community access and the following services:

a. shared living services; or

b. community living services.

3. Transportation-community access will not be used to transport participants to day habilitation, pre-vocational, or supported employment services.

D. Provider Qualifications. Friends and family members who furnish transportation-community access services to waiver participants must be enrolled as Medicaid friends and family transportation providers.

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain:

a. the state minimum automobile liability insurance coverage;

b. a current state inspection sticker; and

c. a current valid driver's license.

2. No special inspection by the Medicaid agency will be conducted.

a. - b. Repealed.

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

a. The statement must also have the signature of two witnesses.

4. Family and friends transportation providers are limited to transporting up to three specific waiver participants.

E. Vehicle Requirements. All vehicles utilized by for profit and non-profit transportation services providers for transporting waiver participants must comply with all of the applicable state laws and regulations and are subject to inspection by the department or its designee.

E.1 - G. 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 for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2166 (October 2015).

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

A. The self-direction initiative is a voluntary, self-determination option which allows the waiver participant to coordinate the delivery of designated ROW services through

an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the participant utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Participant Responsibilities. Waiver participants choosing the self-direction service option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the participant or authorized representative include:

1. - 2. ...

a. participants must adhere to the health and welfare safeguards identified by the support team, including:

i. the application of a comprehensive monitoring strategy and risk assessment and management systems; and

ii. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

3. participation in the development and management of the approved personal purchasing plan.

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary termination. The department may terminate the self-direction service option for a participant and require him to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-direction service option;

b. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the participant or the authorized representative; or

d. over three payment cycles in the period of a year, the participant or authorized representative:

i. ...

ii. fails to follow the personal purchasing plan and the POC;

iii. - iv. ...

D. Employees of participants in the self-direction service option are not employees of the fiscal agent or the Department of Health and Hospitals.

E. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary companion care 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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2167 (October 2015).

Chapter 167. Provider Participation

§16701. General Provisions

A. In order to participate in the Medicaid Program as a provider of services in the Residential Options Waiver, a provider must:

1. meet all of the requirements for licensure and the standards for participation in the Medicaid Program as a home and community-based services provider in accordance with state laws and the rules promulgated by the department;
2. comply with the regulations and requirements specified in LAC 50:XXI, Subparts 1 and 13 and the ROW provider manual;
3. comply with all of the state laws and regulations for conducting business in Louisiana, and when applicable, with the state requirements for designation as a non-profit organization; and
4. comply with all of the training requirements for providers of waiver services.

B. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and provide said documentation upon the department's request.

C. In order for a provider to bill for services, the waiver participant and the direct service worker or professional services practitioner rendering service must be present at the time the service is rendered.

1. Exception. The following services may be provided when the participant is not present:

a. - c. ...

2. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his POC.

D. If transportation is provided as part of a waiver service, the provider must comply with all of the state laws and regulations applicable to vehicles and drivers.

E. All services rendered shall be prior approved and in accordance with the POC.

F. Providers, including direct care staff, cannot live in the same residence as the participant, except host home contractors and companion care workers.

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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2168 (October 2015).

§16703. Staffing Restrictions and Requirements

A. Payments shall not be made to persons who are legally responsible for the care of the waiver participant, which include:

1. parents of minor children;
2. spouses for each other;
3. legal guardians for adults or children with developmental disabilities; or
4. parents for their adult child with developmental disabilities, regardless of the legal status of the adult child.

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the participant.

1. Relatives must also comply with the following requirements:

- a. become an employee of the participant's chosen waiver provider agency;
- b. become a Medicaid enrolled provider agency; or
- c. if the self-direction option is selected, relatives must:

- i. become an employee of the self-direction participant; and
- ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid agency.

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 42:2168 (October 2015).

Chapter 169. Reimbursement

§16901. Reimbursement Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. respite care;
2. housing stabilization transition;
 - a. - b. Repealed.
3. housing stabilization;
 - a. - f. Repealed.
4. community living supports (CLS);
 - a. up to three participants may share CLS services if they share a common provider of this service;
 - b. there is a separate reimbursement rate for CLS when these services are shared;
5. professional services furnished by a/an:
 - a. psychologist;
 - b. speech therapist;
 - c. physical therapist;
 - d. occupational therapist;
 - e. social worker; or
 - f. registered dietician;
6. support coordination; and
7. supported employment:
 - a. individual placement; and
 - b. micro-enterprise.

B. The following services are reimbursed at the cost of adaptation device, equipment or supply item:

1. environmental accessibility adaptations; and
a. Upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates.

2. assistive technology/specialized medical equipment and supplies.

3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. ...

2. companion care living services; and

3. ...

a. Per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services.

D. The following services are reimbursed at a per one-half day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. day habilitation;

2. pre-vocational; and

3. supported employment;

a. mobile crew; and

b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/ID or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

I. - J. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for Residential Options Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

a. personal emergency response services;

b. environmental accessibility adaption services;

c. specialized medical equipment and supplies; and

d. support coordination services.

L. - L.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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 42:2168 (October 2015).

§16903. Direct Support Staff Wages

A. In order to maximize staffing stability and minimize turnover among direct support staff, providers of the following services furnished under the Residential Options Waiver are required to pay direct support workers an hourly wage that is at least 29 percent (\$1.50) more than the federal

minimum wage in effect as of July 23, 2007 or the current federal minimum wage, whichever is higher:

1. community living supports;

2. respite services-out of home;

3. shared living;

4. day habilitation;

5. prevocational services; and

6. supported employment.

7. 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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:2169 (October 2015).

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.

Kathy H. Kliebert
Secretary

1510#085

RULE

Department of Health and Hospitals Bureau of Health Services Financing and

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Residential Options Waiver
Permanent Supportive Housing Services
(LAC 50:XXI.16339, 16341, and 16901)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have adopted LAC 50:XXI.16339 and 16341, and to amend §16901 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 XXI. Home and Community Based Services Waivers

Subpart 13. Residential Options Waiver

Chapter 163. Covered Services

§16339. Housing Stabilization Transition Services

A. Housing stabilization transition services enable participants who are transitioning into a permanent supportive housing unit, including those transitioning from institutions, to secure their own housing. This service is provided while the participant is in an institution and preparing to exit the institution using the waiver. Housing stabilization transition services include:

1. conducting a housing assessment to identify the participant's preferences related to housing (i.e., type,

location, living alone or with someone else, accommodations needed, and other important preferences), and his/her needs for support to maintain housing, including:

- a. access to housing;
- b. meeting the terms of a lease;
- c. eviction prevention;
- d. budgeting for housing/living expenses;
- e. obtaining/accessing sources of income necessary for rent;
- f. home management;
- g. establishing credit; and
- h. understanding and meeting the obligations of tenancy as defined in the lease terms;

2. assisting the participant to view and secure housing as needed, including:

- a. arranging or providing transportation;
- b. assisting in securing supporting documents/records;
- c. completing/submitted applications;
- d. securing deposits; and
- e. locating furnishings;

3. developing an individualized housing support plan, based upon the housing assessment, that:

- a. includes short- and long-term measurable goals for each issue;
- b. establishes the participant's approach to meeting the goal; and
- c. identifies where other provider(s) or services may be required to meet the goal;

4. participating in the development of the plan of care and incorporating elements of the housing support plan; and

5. exploring alternatives to housing if permanent supportive housing is unavailable to support completion of transition.

B. This service is only available upon referral from the support coordinator, and is not duplicative of other waiver services, including support coordination. It is only available to persons who reside in a state of Louisiana permanent supportive housing unit, or who are linked for the state of Louisiana permanent supportive housing selection process.

C. Participants may not exceed 165 combined units of this service and the housing stabilization service without written approval from OCDD.

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 41:2169 (October 2015).

§16341. Housing Stabilization Services

A. Housing stabilization services enable waiver participants to maintain their own housing as set forth in the participant's approved plan of care. Services must be provided in the home or a community setting. Housing stabilization services include the following components:

1. conducting a housing assessment to identify the participant's preferences related to housing (i.e., type, location, living alone or with someone else, accommodations needed, and other important preferences), and his/her needs for support to maintain housing, including:

- a. access to housing;
- b. meeting the terms of a lease;

- c. eviction prevention;
- d. budgeting for housing/living expenses;
- e. obtaining/accessing sources of income necessary for rent;
- f. home management;
- g. establishing credit; and
- h. understanding and meeting the obligations of tenancy as defined in the lease terms;

2. participating in the development of the plan of care, incorporating elements of the housing support plan;

3. developing an individualized housing stabilization service provider plan, based upon the housing assessment, that:

- a. includes short- and long-term measurable goals for each issue;
- b. establishes the participant's approach to meeting the goal; and
- c. identifies where other provider(s) or services may be required to meet the goal;

4. providing supports and interventions according to the individualized housing support plan (if additional supports or services are identified as needed outside the scope of housing stabilization service, the needs must be communicated to the support coordinator);

5. providing ongoing communication with the landlord or property manager regarding:

- a. the participant's disability;
- b. accommodations needed; and
- c. components of emergency procedures involving the landlord or property manager;

6. updating the housing support plan annually or as needed due to changes in the participant's situation or status; and

7. if at any time the participant's housing is placed at risk (i.e., eviction, loss of roommate or income), housing stabilization service will provide supports to retain housing or locate and secure housing to continue community-based supports, including locating new housing, sources of income, etc.

B. This service is only available upon referral from the support coordinator. Housing stabilization is not duplicative of other waiver services, including support coordination. It is only available to persons who reside in a state of Louisiana permanent supportive housing unit.

C. Participants may not exceed 165 combined units of this service and the housing stabilization transition service without written approval from OCDD.

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 41:2170 (October 2015).

Chapter 169. Reimbursement

§16901. Reimbursement Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. respite care;

2. housing stabilization transition;
 - a. - b. Repealed.
3. housing stabilization;
 - a. - f. Repealed.
4. community living supports (CLS);
 - a. up to three participants may share CLS services if they share a common provider of this service;
 - b. there is a separate reimbursement rate for CLS when these services are shared;
5. professional services furnished by a/an:
 - a. psychologist;
 - b. speech therapist;
 - c. physical therapist;
 - d. occupational therapist;
 - e. social worker; or
 - f. registered dietician;
6. support coordination; and
7. supported employment:
 - a. individual placement; and
 - b. micro-enterprise.

B. The following services are reimbursed at the cost of adaptation device, equipment or supply item:

1. environmental accessibility adaptations; and
 - a. Upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates.
2. assistive technology/specialized medical equipment and supplies.
3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. ...
2. companion cares living services; and
3. ...
 - a. Per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services.

D. The following services are reimbursed at a per one-half day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. day habilitation;
2. pre-vocational; and
3. supported employment:
 - a. mobile crew; and
 - b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/ID or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

I. - J. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for Residential Options Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

- a. personal emergency response services;
- b. environmental accessibility adaption services;
- c. specialized medical equipment and supplies; and
- d. support coordination services.

L. - L.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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2170 (October 2015).

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.

Kathy H. Kliebert
Secretary

1510#086

RULE

Department of Health and Hospitals Bureau of Health Services Financing and Office of Behavioral Health

School Based Behavioral Health Services
(LAC 50:XXXIII.Chapter 41 and
4301, 4303, 4501, and 4703)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health have amended LAC 50:XXXIII.Chapters 41-47 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 XXXIII. Behavioral Health Services

Subpart 5. School Based Behavioral Health Services

Chapter 41. General Provisions

§4101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for school based behavioral health services rendered to children and youth with behavioral health disorders. These services shall be administered under the authority of the Department of Health and Hospitals.

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, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2171 (October 2015).

§4103. Recipient Qualifications

A. ...

B. Qualifying children and adolescents must have been determined eligible for Medicaid and behavioral health services covered under Part B of the Individuals with Disabilities Education Act (IDEA), with a written service plan (an IEP) which contains medically necessary services recommended by a physician or other licensed practitioner, within the scope of his or practice under state law.

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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015).

Chapter 43. Services

§4301. General Provisions

A. - C. ...

D. Children who are in need of behavioral health services shall be served within the context of the family and not as an isolated unit.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

E. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary 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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015).

§4303. Covered Services

A. - B.3. ...

C. 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, Bureau of Health Services Financing, LR 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:384 (February 2015), LR 41:2172 (October 2015).

Chapter 45. Provider Participation

§4501. Local Education Agency Responsibilities

A. - B. ...

C. All services shall be delivered in accordance with federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department.

D. Providers of behavioral health services shall ensure that all services are authorized and any services that exceed

established limitations beyond the initial authorization are approved for re-authorization prior to service delivery.

E. Anyone providing behavioral health services must be certified by the department, or its designee, in addition to operating within their scope of practice license. The provider shall create and maintain documents to substantiate that all requirements are met.

F. Providers shall maintain case records that include, at a minimum:

1. a copy of the treatment plan;

2. the name of the individual;

3. the dates of service;

4. the nature, content and units of services provided;

5. the progress made toward functional improvement;

and

6. the goals of the treatment plan.

G. - G.6. 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, Bureau of Health Services Financing, LR 38:401 (February 2012) amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:385 (February 2015), LR 41:2172 (October 2015).

Chapter 47. Payments

§4703. Cost Calculations

A. ...

B. For each of the IDEA related school based services other than specialized transportation services, the participating LEA's actual cost of providing the services will be claimed for Medicaid reimbursement.

C. - 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, Bureau of Health Services Financing, LR 38:401 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015).

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.

Kathy H. Kliebert
Secretary

1510#087

RULE

**Department of Insurance
Office of the Commissioner**

Regulation 103—Utilization Review
Organizations and Independent Review Organizations
(LAC 37:XIII.Chapter 62)

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., notice is hereby given that the Department of Insurance has

promulgated Regulation 103. The purpose of the regulation is to establish the standards and criteria for the structure and operation of utilization review and benefit determination processes to facilitate assessment and management of health care services; to provide the standards for the establishment and maintenance of procedures by health insurance issuers to assure that covered persons have the opportunity for appropriate resolution of internal and external appeals; and to provide uniform standards for the establishment and maintenance of an internal claims and appeals process and external review procedures to assure that covered persons have the opportunity for an independent review of an adverse determination or final adverse determination. Regulation 103 replaces Regulation 77 as utilization review organizations and independent review organizations statutorily replace medical necessity review organizations.

Title 37
INSURANCE

Part XIII. Regulations

Chapter 62. Regulation 103—Utilization Review Organizations and Independent Review Organizations

§6201. Purpose

A. The purpose of this regulation is:

1. to establish the standards and criteria for the structure and operation of utilization review and benefit determination processes designed to facilitate ongoing assessment and management of health care services;

2. to provide the standards for the establishment and maintenance of procedures by health insurance issuers to assure that covered persons have the opportunity for the appropriate resolution of internal and external appeals; and

3. to provide uniform standards for the establishment and maintenance of an internal claims and appeals process and external review procedures to assure that covered persons have the opportunity for an independent review of an adverse determination or final adverse determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2173 (October 2015).

§6203. Applicability and Scope

A. This regulation applies to all utilization review organizations, independent review organizations, health insurance issuers and health maintenance organizations that are doing business and acting as a utilization review organization or independent review organization in the state of Louisiana or who are seeking to do business as a utilization review organization or independent review organization in the state of Louisiana, as well as to health insurance issuers when they are a party to an external review request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2173 (October 2015).

§6205. Authorization or Licensure as a URO

A. No health insurance issuer or entity acting on behalf of or as an agent of a health insurance issuer shall act as a utilization review organization unless licensed to do so by the commissioner. The license shall become effective upon approval by the commissioner and shall remain in effect,

unless suspended or revoked by an action of the commissioner.

B. Entities who are not health insurance issuers but who are seeking to become licensed as a URO must complete and submit an application packet to the commissioner. The packet must include the application on the form approved and provided by the commissioner, payment of the initial fee per R.S. 22:821(B)(36) and all supporting documentation. Failure to submit all required documentation may result in processing delays or disapproval of the application. To obtain a copy of the URO application, visit www.lldi.la.gov/industry/company-licensing/application-forms.

C. Entities who are health insurance issuers and hold a valid certificate of authority in this state are not required to complete an application. However, the following documentation must be submitted to the commissioner:

1. a general description of the operation of the URO, including a statement that the URO does not engage in the practice of medicine nor acts to impinge or encumber the independent medical judgment of treating physicians or providers;

2. a copy of the URO's program description or procedures manual;

3. a sample copy of any contract, absent fees charged, for making utilization review determinations that is entered into with another health insurance issuer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2173 (October 2015).

§6207. Approval of Independent Review Organizations (IRO)

A. The commissioner must approve eligible IROs prior to their conducting external reviews or acting in the capacity of an IRO. However, no organization shall be approved as an IRO or added to the list of approved IROs until it has submitted for approval a completed application packet and proof of accreditation by a nationally recognized private accrediting body that maintains accreditation standards equivalent to or higher than the minimum qualifications set forth in R.S. 22:2441. If the commissioner does not approve an IRO, the IRO will be notified of the disapproval in writing.

B. The application packet must include the application completed on the form approved and provided by the commissioner, payment of the initial fee per R.S. 22:821(B)(37) and all supporting documentation as outlined in the application. Failure to submit all required documentation may result in processing delays or disapproval of the application. To obtain a copy of the IRO application, visit www.lldi.la.gov/industry/company-licensing/application-forms.

C. IRO approvals are effective for two years from the date of approval. A request for re-approval must be submitted on the application form that has been approved by the commissioner and shall be accompanied by the applicable fee. Re-approval applications must be submitted not less than 60 days prior to the expiration of the most current approval.

D. If an approved IRO's specialty changes at any point during the two-year period, the IRO must inform the LDI of

this change in writing within seven business days of such change.

E. The commissioner will maintain and update the list of approved IROs. However, the commissioner may also revoke approval prior to the expiration of the two-year term, should it be determined that the IRO has lost its accreditation or no longer meets the minimum requirements under R.S. 22:2441. In such case, the IRO will be removed from the list of IROs and must cease conducting reviews. Any reviews that are pending for review by an IRO that has been removed from the list may be reassigned by the commissioner to another IRO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2173 (October 2015).

§6209. Requesting an External Review

A. All requests for external review must be made by the issuer through the IRO review request module, which can be accessed via the industry access link on the LDI's website: www.ldi.la.gov. When an enrollee requests an external review, the issuer shall notify LDI by entering this request via the link. The request must be entered even if the issuer determines the request is ineligible for review.

B. If the covered person requests an external review but the insurer denies the request as being ineligible pursuant to R.S. 22:2436(B), the covered person or his authorized representative may appeal in writing to the commissioner. The insurer and the insured both may submit additional documentation, such as the policy to verify coverage limitations as well as dates of coverage, documentation of service dates, etc., to help establish why the denial should be upheld or reversed. However, no medical or protected health information should be submitted to the commissioner for this review, unless such information is determinative of the issue in the appeal.

C. Upon receipt of an appeal of an issuer's eligibility determination, the LDI may contact the issuer's designated contact to request additional information, if necessary. Therefore, all issuers should ensure that the designated contact's information is regularly updated in the industry access portal, as all electronic communications, including assignment of a case to an IRO, reporting of an IRO's external review results, reporting of the commissioner's decision on eligibility for an external review, etc., will be sent automatically to the designated contact of record that is on file with the LDI.

D. To facilitate notice of the right to appeal a determination of ineligibility to the commissioner, the issuer shall include the reason for ineligibility, as well as the following language (or language that is substantially similar), in its notice to the insured:

"[Name of issuer] has determined that your request for an independent external review of your adverse determination does not meet the eligibility requirements for independent external reviews because [reason]. However, [name of issuer]'s determination that you are ineligible for an external review may be appealed to the Commissioner of Insurance, who has the authority to reverse [name of issuer]'s decision and order an independent external review of your adverse determination. If you wish to appeal this decision, you should go to the following website: <https://ldi.la.gov/OnlineServices/IROConsumerAppeals>.

Once you access the website, enter your last name and case number where instructed. Following verification of your name and case number, you will be able to enter the reasons you believe your adverse determination should be eligible for an independent external review. If you have questions or if you or your authorized representative is unable to access the website, you may contact the Louisiana Department of Insurance by e-mail at ConsumerAppeals@ldi.la.gov or by telephone at (225) 342-1355.

Your case number is _____."

1. Issuers must also upload a copy of the adverse determination letter when reporting external review requests that have been deemed ineligible.

E. If an insured requests an external review and the insurer does not deny the request as being ineligible or if the commissioner reverses a request that the insurer had deemed ineligible for external review, the health insurance issuer must submit the request to the LDI for assignment of an external review by using the IRO review request form which can be located on the LDI website, www.ldi.la.gov via the industry access portal.

F. When completing the IRO review request form, the insurer must enter the following information:

1. the insured's name;
2. insured's contact information (address, telephone, email address, fax);
3. name of insured's authorized representative (if applicable);
4. authorized representative's contact information (if applicable);
5. policy/contract number;
6. name of primary care doctor or specialist;
7. type of specialty;
8. type of appeal requested: medical, rescission or experimental;
9. type of appeal requested: standard or expedited;
10. result of request: eligible or ineligible.

G. Once the case has been assigned, neither the covered person nor the health insurance issuer may request the case be reassigned to another IRO, as all IRO assignments are final, unless reassignment is necessary pursuant to Subsection E of §6211.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2174 (October 2015).

§6211. Assignment of Cases to IRO for External Review

A. When an external review is requested and deemed eligible for review, the commissioner will randomly assign that case to an approved IRO for an external review.

B. IROs will be notified of a case assignment via email, which will also include the external review case number specific to the case. To access the case via the industry access portal, click on the link that will be provided in the notice of assignment email.

C. To open and access the case file, click on the "View" button next to the case number. From there, the IRO will have access to the insured's contact information, or the insured's authorized representative's contact information, and supporting documentation for review. The IRO will also enter on this screen its final decision to either uphold or

reverse the adverse determination. When the IRO submits its decision in the case, it will receive a confirmation message that the decision was successfully submitted.

D. Notification of the case assignment will also be given to the covered person and the health insurance issuer, and will include the name and contact information of the IRO to whom the case has been assigned.

E. Reassignment of an external review may occur only when:

1. there exists a conflict of interest pursuant to R.S. 22:2441(D). If a conflict exists, the LDI must be informed of such conflict via the industry access link;

2. the IRO is not qualified to perform the type of review requested;

3. the IRO loses its accreditation; or

4. the IRO fails to meet the minimum requirements as set forth in R.S. 22:2441.

F. Should an IRO reassignment be necessary, the commissioner will immediately and randomly reassign another IRO to conduct the review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2174 (October 2015).

§6213. Annual Reporting

A. UROs and/or health insurance issuers acting as UROs must submit an annual report to the commissioner by March 1 of each year, unless otherwise informed by the commissioner. The report must be submitted on the form supplied by the Office of Health Insurance. If a report is not filed on the form provided, the report will not be accepted. A report filing fee shall be due from any URO other than a health insurance issuer, per R.S. 22:821(B)(36).

B. IROs must submit an annual report to the commissioner by March 1 of each year, unless otherwise informed by the commissioner. The report must be submitted on the form supplied by the Office of Health Insurance. If a report is not filed on the form provided, the report will not be accepted. The submission must be accompanied by the annual report filing fee, per R.S. 22:821(B)(37).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2175 (October 2015).

§6215. Confidentiality

A. All health insurance issuers must annually certify in writing that their utilization review program or the utilization review program of their designated URO complies with all state and federal laws regarding confidentiality and reporting. The certification shall be made on a form supplied by the Office of Health Insurance by March 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2175 (October 2015).

§6217. Severability

A. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation that can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2175 (October 2015).

§6219. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 41:2175 (October 2015).

§6221. Appeals of Adverse Determinations; Standard Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:850 (April 2002), repealed LR 41:2175 (October 2015).

§6223. Second Level Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:850 (April 2002), repealed LR 41:2175 (October 2015).

§6225. Request for External Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 22:3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:851 (April 2002), repealed LR 41:2175 (October 2015).

§6227. Standard External Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: La. R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:851 (April 2002), repealed LR 41:2175 (October 2015).

§6229. Expedited Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:852 (April 2002), repealed LR 41:2175 (October 2015).

§6231. Expedited External Review of Urgent Care Requests

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:852 (April 2002), repealed LR 41:2175 (October 2015).

§6233. Binding Nature of External Review Decisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:852 (April 2002), repealed LR 41:2176 (October 2015).

§6235. Minimum Qualifications for Independent Review Organizations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:853 (April 2002), repealed LR 41:2176 (October 2015).

§6237. External Review Register

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:854 (April 2002), repealed LR 41:2176 (October 2015).

§6239. Emergency Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:854 (April 2002), repealed LR 41:2176 (October 2015).

§6241. Confidentiality Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:854 (April 2002), repealed LR 41:2176 (October 2015).

§6243. Severability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statute of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:854 (April 2002), repealed LR 41:2176 (October 2015).

§6245. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 2014; and 3090, to implement and enforce the following provisions: R.S. 22:2021 and Chapter 7 of Title 22 of the Revised Statute of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:855 (April 2002), repealed LR 41:2176 (October 2015).

James J. Donelon
Commissioner

1510#023

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Application and Reporting Forms (LAC 42:III.120)

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it has promulgated LAC 42:III.120.

Title 42

LOUISIANA GAMING

Part III. GAMING CONTROL BOARD

Chapter 1. General Provisions

§120. Application and Reporting Forms

A. - A.5.b.viii. ...

6. General forms:

a. request for permission to reapply, DPSSP 0060.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR. 26:340 (February 2000), amended LR 40:1379 (July 2014), LR 41:2176 (October 2015).

Ronnie Jones
Chairman

1510#090

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Request for Permission to Reapply (LAC 42:III.113)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24, it has promulgated LAC 42:III.113.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

§113. Request for Permission to Reapply

A. A person who has been found unsuitable and/or whose license, permit, or approval has been revoked, in this state or in any other jurisdiction, may not apply for a license, permit, or approval or a finding of suitability for five years from the date there was a finding of unsuitability and/or the license, permit, or approval was revoked, unless the board allows the application for good cause shown.

B. Any request for permission to reapply pursuant to R.S. 27:28(E) and 27:431(D), shall be made to the board by the filing of a request for permission to reapply. Such request may not be made within one year from the date of the revocation and/or finding of unsuitability. If the request for permission to reapply is denied or is granted but the application is denied, another request for permission to reapply may not be filed within the five-year period of Subsection A of this Section and R.S. 27:28(E) and R.S. 27:431(D).

C. Good cause under R.S. 27:28(E) and 27:431(D) shall be considered on a case-by-case basis and shall be limited to cases in which:

1. the revocation and/or finding of unsuitability was the result of disqualification pursuant to R.S. 27:28(B)(2), and the prosecution or criminal charge on which the revocation was based did not result in a conviction or a plea of guilty or nolo contendere for any offense listed in R.S. 27:28(B)(1);

2. the basis for revocation or finding of unsuitability has been corrected or no longer exists due to one of the following exclusive reasons:

a. a person who was not current in the filing of all applicable tax returns and in the payment of all taxes, interest, and penalties owed to any local taxing authority(ies), the state of Louisiana, and the Internal Revenue Service has become current in such payments and filings;

b. a person required to submit to and meet suitability under R.S. 27:28(H) or 27:427(D) and who was declared unsuitable is no longer required, for any reason, to submit to and meet suitability in connection with the application intended to be filed by the person whose license or permit was revoked;

c. a person whose license or permit has been revoked for failure to submit annual affidavits and fees or other documents required to be submitted therewith, including any tax clearance certificate(s) required by the division or board, cures all such delinquencies by submission of all past due forms, fees, tax clearances, and other required documentation and pays all outstanding penalties imposed for such delinquencies;

3. the statutory or regulatory provision forming the basis for revocation and/or finding of unsuitability is repealed or modified, and the repeal or modification of the statutory or regulatory provision negates the grounds for revocation and/or finding of unsuitability.

D. A request filed under this Section must:

1. be in the form of a request for permission to reapply;

2. be in writing and submitted to the Louisiana Gaming Control Board;

3. be made by the person seeking to reapply for a license, permit, or approval which was previously revoked or by a person who was found unsuitable to participate in Louisiana's gaming industry;

4. include a copy of the decision and order of revocation or finding of unsuitability;

5. include an explanation of how the grounds that were the basis for revocation or finding of unsuitability have been corrected or no longer exist. This must be supported by notarized or certified copies of documents which

demonstrate that there is good cause pursuant to Subsection C to allow reapplication; and

6. comply with all requirements set forth in the request for permission to reapply, as well as this Section.

E. Person, as used in this Section, shall have the same meaning as defined in R.S. 27:3(22).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 41:2176 (October 2015).

Ronnie Jones
Chairman

1510#089

RULE

Workforce Commission Rehabilitation Services

Business Enterprises Program Manual (LAC 67:VII.Chapter 5)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, Louisiana Workforce Commission (LWC), Louisiana Rehabilitation Services (LRS), has revised seven Sections of the Business Enterprise Program Manual, as it related to the Randolph-Sheppard Program as a result of 2014 Legislation ACT 761. In §505.A, Federal Legal Authority, the "Department of Social Services" has been removed. In §507.C, State Legal Authority, the term *preference* has been changed to *priority* and the description of where priority applies has been defined. In §509, Definitions, three definitions have been revised to reflect content in R.S. 23:3021 and R.S. 23:3042. There is a second §509, Promulgation of Business Enterprises Program Policies, the agency has changed this Section to §510. And in this Subsection B., the Department of Social Services has been removed. In Section §515.A, Organization of State Licensing Agency, "Louisiana Department of Social Services" has been removed. In §519.H, State Licensing Agency Responsibilities, the agency added procedures for enforcing Randolph Sheppard priority added in R.S. 23:3023(F) and (G). In §519.I, as per R.S. 23:3023(D), the agency added rules and regulations regarding employment targets. In §519.J, the agency added a time frame for a new reporting requirement in R.S. 23:3021(C). In §527, agency was revised to reflect content in R.S. 23:3042.8.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 5. Business Enterprises Program Manual §505. Federal Legal Authority

A. The Rehabilitation Act of 1973 as amended by the Rehabilitation Act Amendments of 1986 and 1992. In accordance with federal law under title I of the Rehabilitation Act of 1973 (Public Law 93-112) as amended, including the Rehabilitation Act amendments of 1986 (Public Law 99-506), and the Rehabilitation Act amendments of 1992 (Public Law 102-569), vocational and

other rehabilitation services are offered to individuals with disabilities through Louisiana Rehabilitation Services.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:527 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2177 (October 2015).

§507. State Legal Authority

A. - B. ...

C. R.S. 23:3023 gives priority to the blind in operation of vending stands, vending machines, cafeterias, and other small business concessions to be operated in the portions, or portions thereof, of properties that those state agencies, boards, commissions, and institutions own, maintain, occupy, or control. No other vending stands, vending machines, cafeterias, or small business concessions shall be operated on the same premises with vending stands, vending machines, cafeterias, or other small business concessions operated, or contemplated, under the blind business enterprise program, except as provided by R.S. 23:3023.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:528 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§509. Definitions

A. The following words or terms, when used in this manual, shall have the following meaning unless the context clearly indicates otherwise.

* * *

Active Participation—an ongoing process of good faith negotiations between Louisiana Rehabilitation Services and the Louisiana Blind Vendors elected committee to achieve joint planning of policies, procedures, standards, rules, and regulations affecting the overall operation of the Business Enterprise Program prior to implementation by Louisiana Rehabilitation Services. Louisiana Rehabilitation Services shall have final authority and responsibility in all decisions relative to the administration and operation of the Business Enterprise Program. Active participation shall include the requirements set forth in 34 CFR 395.14(b)(1), (3), and (4).

* * *

Blind Person—a person who, after examination by a licensed physician skilled in the diseases of the eye or by a licensed optometrist, has been determined to have:

a. not more than 20/100 central visual acuity in the better eye with correcting lenses; or

b. an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

* * *

Management Services—supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. Management services do not include those services or costs which pertain to the on-going operation of an individual facility after the initial establishment period.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:528 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§510. Promulgation of Business Enterprises Program Policies

A. ...

B. The rulemaking authority is Louisiana Rehabilitation Services, hereinafter referred to as the state licensing agency (SLA). Promulgation of rules and procedures governing the Business Enterprises Program follows the process Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:530 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§515. Organization of State Licensing Agency

A. Louisiana Rehabilitation Services (LRS), is designated as the sole state agency under a state plan for vocational rehabilitation services approved pursuant to the provisions of the Rehabilitation Act of 1973, (29 U.S.C. ch. 16) and approved by Rehabilitation Services Administration as the state licensing agency.

1. - 8.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:530 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§519. State Licensing Agency Responsibilities for Business Enterprise Operations

A. - G.4.d. ...

H. Enforcement Randolph Sheppard Priority. The SLA is responsible for notifying entities of the Randolph Sheppard priority to operate vending services as specified in R.S. 23:3023. If there is a dispute that cannot be resolved by the parties, the SLA will file for a full evidentiary hearing as follows.

1. Full Evidentiary Hearings. A full evidentiary hearing shall be conducted by an impartial and qualified official designated by Louisiana Rehabilitation Services with no involvement or vested interest in the dispute at issue.

a. The hearing offices shall make a written report of the evidence presented, the laws and rules used in determining a resolution, and the resolution itself.

b. Report shall be issued to all parties within 30 calendar days of the conclusion of the full evidentiary hearing.

c. The decision shall be final and conclusive unless fraudulent, or unless either party institutes a suit pursuant to R.S. 23:2023(G).

I. Implementation of R.S. 23:3023(D): Employment and Training Targets for Persons who are Blind or Otherwise Disabled

1. Requirement applies to:

a. each blind vendor who employs greater than 10 employees and operates a BEP facility under a permit ratified or issued after the promulgation of this Subsection;

b. businesses that provide services to BEP facilities that employ greater than 10 employees and operate under a contract ratified or issued after the promulgation of this Subsection.

2. Employer Guidelines. Specific targets will be determined by the employer and may include:

a. establishing numerical hiring goals to include individuals with disabilities and incorporate these goals in their hiring practices;

b. engaging in outreach activities and targeted recruitment of individuals with disabilities;

c. utilizing services provided by Louisiana Rehabilitation Services to access a qualified pool of candidates for on the job training and temporary and permanent employment opportunities.

3. LRS' role will be to govern and implement initiatives to provide education, outreach and information regarding effective business practices that foster employment of blind or otherwise disabled individuals. The expected outcome of these strategies, is to increase job opportunities for individuals who are blind or otherwise disabilities.

J. Louisiana Rehabilitation Services shall submit a quarterly performance report of the agency's programs for blind persons to the legislature by the end of the month following the end of the quarter. An annual report shall be submitted no later than 60 days prior to the convening of the Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:532 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§527. The Elected Committee of Managers

A. ...

B. Paragraphs 527.B.1-2 provide guidance in approaching the degree of participation by the ECM.

1. *Active participation* means an ongoing process of good faith negotiations between the ECM and SLA to achieve joint planning of policies, procedures, standards, rules and regulations affecting the overall operation of the Business Enterprise Program prior to implementation by the SLA.

2. The SLA shall have final authority and responsibility in all decisions relative to the administration and operation of all aspects of the Business Enterprises Program.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:532 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2179 (October 2015).

Curt Eysink
Executive Director

1510#046

RULE

Workforce Commission Rehabilitation Services

Randolph-Sheppard Trust Fund Policy (LAC 67:VII.Chapter 21)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, Louisiana Workforce Commission (LWC), Louisiana Rehabilitation Services (LRS), has revised six Sections of the Randolph-Sheppard trust fund policy, as it relates to the Randolph-Sheppard Program as a result of 2014 Legislation ACT 761. In §2101.B.1, Program Administration, the "Department of Social Services" was removed, "Louisiana Workforce Commission" was added, and in §2101.B.2, the term *advisory* was removed and the balance of the Section was revised to reflect the content in R.S. 23:3044. In §2105, Definitions, the term *agency* replaced "Department of Social Services" and added "Louisiana Workforce Commission, Office of Workforce Development," the term *board* replaced the word *advisory*, and the term *department* replaced the "Department of Social Services" and added "Louisiana Workforce Commission." In §2107, Blind Vendors Trust Fund Advisory Board, the term *advisory* was removed from the Section title. In §2107.A, the term *advisory* was removed. In §2107.A.1, "of the Department of Social Services" was removed. In §2111.C, Expenditures, the agency added "with the active participation of the Blind Vendors Trust Fund Board." In §2111.D, the term *associated* was removed and the term *consistent* was added, and the agency added "with the active participation of the Blind Vendors Trust Fund Board." In §2113.A, Financial Reports, the agency removed "of the Department of Social Services." In §2115.C, General Requirements, the agency removed "Department of Social Services" and added "Louisiana Workforce Commission."

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 21. Randolph-Sheppard Trust Fund Policy

§2101. Program Profile

A. Mission. To provide for the enhancement of programs for persons who are licensed and permitted through the Randolph-Sheppard Business Enterprise Program.

B. Program Administration

1. The administration of the fund shall be exercised by Louisiana Workforce Commission, Louisiana Rehabilitation Services.

2. The Blind Vendors Trust Fund Board shall actively participate with the agency in the following: promulgating policies, procedures, standards, rules and regulations; monitoring, evaluating, reviewing the development and quality of services and programs funded through the fund; and developing an annual list of potential vending locations on state, federal, or other property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2179 (October 2015).

§2105. Definitions

Agency—Louisiana Rehabilitation Services of the Office of Workforce Development within the Louisiana Workforce Commission, which licenses blind vendors.

* * *

Randolph-Sheppard Act—the federal law which enables the Blind Enterprise Program under the authority of 20 U.S.C. 107 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).

§2107. Blind Vendors Trust Fund Board

A. The Blind Vendors Trust Fund Board shall be composed of nine members as follows:

1. the director of Louisiana Rehabilitation Services or his or her designee;

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).

§2111. Expenditures

A. - B. ...

C. Income not expended for the primary purpose shall be used for the maintenance and replacement of equipment, the purchase of new equipment, management services, and securing a fair return to vendors, or as provided by state and federal guidelines with the active participation of the Blind Vendors Trust Fund Board.

D. Money in the trust fund from vending machines located on state-owned property or on property leased by the state agency, or on other property shall be distributed for any purpose consistent with the Randolph-Sheppard Program as may be determined by the state licensing agency with the active participation of the Blind Vendors Trust Fund Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).

§2113. Financial Reports

A. The director of Louisiana Rehabilitation Services or his designee shall arrange for full and accurate financial records to be maintained in compliance with law and shall make a full and complete report to the board annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).

§2115. General Requirements

A. - B. ...

C. Compliance with State and Federal Laws and Regulations, and Departmental Policies and Procedures. All agencies and staff involved in the Blind Vendors Trust Fund shall comply with all state and federal laws, including the Louisiana Workforce Commission policies and procedures as well as civil rights rules and regulations, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Service, Office of Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).

Curt Eysink
Executive Director

1510#045

RULE

Workforce Commission Rehabilitation Services

Vocational Rehabilitation Program (LAC 67:VII.Chapter 1)

Editor's Note: This Rule is being repromulgated to correct a citation error. The original Rule can be viewed in the September 20, 2015 edition of the *Louisiana Register* on pages 1774-1776.

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, Louisiana Workforce Commission, Louisiana Rehabilitation Services (LRS) has amended §103, §105, §115, §117, and §119 of its Vocational Rehabilitation Program (VR) policy manual to provide clarification of processes and to update guidelines to be used in the determination of financial assistance for eligible consumers. In §103, Enabling Legislation, Louisiana Rehabilitation Services updated its policy manual to reflect the agency transfer to the Louisiana Workforce Commission from the Department of Social Services per Act 939 of the 2010 Legislative Session. In §105, Confidentiality, the agency clarified the need to have written consent to release an individual's case file information. In §115, Financial, the agency removed the out-of-date basic living requirement chart and will utilize a multiple of 250 percent of the U.S. Department of Health and Human Services' poverty guidelines, which is updated annually, thus allowing the agency access to the most up-to-date information when determining financial assistance for eligible consumers. In §117, Vocational Rehabilitation Services, the agency restructured policy pertaining to the scope of establishing a small business. The agency revised the definition of "transition student" in §119, Transition Process for Individuals in Secondary Education Programs.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§115. Financial

A. - B.2.a.vii. ...

viii. on-the-job training;

ix. assistive technology devices and services (except hearing aids);

x. personal assistance services provided simultaneously with any of the above-listed vocational rehabilitation services; (Examples include attendant, reader, scribe, interpreter, ASL, braille, notetaker, and adjustment/orientation and mobility training services.)

2.b. - 3.d.ii. ...

C. LRS shall determine an individual's financial need for certain vocational rehabilitation services based on the individual's disability related expenses, available assets, and a multiple of 250 percent of the current U.S. Department of Health and Human Services' poverty guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:1038 (June 2008), amended by the Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015), repromulgated LR 41:2180 (October 2015).

Curt Eysink
Executive Director

1510#047

Notices of Intent

NOTICE OF INTENT

Department of Economic Development Office of Business Development

Quality Jobs Program (LAC 13:I.Chapter 11)

These rules are being published in the *Louisiana Register* as required by R.S. 47:4351 et seq. The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104, hereby proposes to amend and reenact Sections 1105, 1107, 1111, 1117, and 1123 and proposes to enact Section 1133 for the administration of the Quality Jobs Program in LAC 13:I.Chapter 11, to implement fees under the new fee schedule provided for by Act 361 of the 2015 Regular Session of the Louisiana Legislature and to make other changes to bring the rules into compliance with statute and department procedures.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 11. Quality Jobs Program

§1105. Qualified Employers

A. To qualify for a Quality Jobs Program contract an employer must meet the following requirements.

1. - 2.i. ...

3. Payroll

a. - c. ...

d. The employer shall have the required annual payroll for new direct jobs and the minimum five new direct jobs for the employer's fiscal year in which the employer is applying for its third annual rebate, or the contract is cancelled and any rebates received must be repaid.

4. - 5.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2307 (November 2003), amended by the Office of Business Development, LR 37:2590 (September 2011), LR 42:

§1107. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$250, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record under *Louisiana Revised Statutes*, title 44, chapter 1, Louisiana public records law, and subject to disclosure to the public.

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, Business Incentives Services, P.O. Box 94185, Baton Rouge, LA 70804-9185 on the prescribed forms no later than 24 months after the department has received the advance notification and fee. Failure to file an application within the prescribed timeframe will result in the expiration of the advance notification.

C. An application fee shall be submitted with the application based on the following:

1. 0.5 percent (.005) times the estimated total incentive rebates (see application fee worksheet to calculate);

2. the minimum application fee is \$500 and the maximum application fee is \$15,000 for a single project;

3. an additional application fee will be due if a project's employment or investment scope is or has increased, unless the maximum has been paid.

D. An application to renew a contract shall be filed within 60 days of the initial contract expiring. A fee of \$250 must be filed with the renewal contract.

E. The advance notification, application, or annual certification is not deemed to be filed until all required information and fees are received by LED. Processing fees for advance notifications, applications, or annual certification that have been accepted for eligible projects shall not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:2591 (September 2011), LR 41:1085 (June 2015), LR 42:

§1111. Consultation with the LWC and the LDR

A. The department will provide a copy of the application and all relative information to the LWC and the LDR for review. Either the LWC or the LDR or both may require additional information from the applicant.

B. The department must receive a letter-of-no-objection or a letter-of-approval from the LWC and the LDR, prior to submitting the application to the board for action. If LWC or LDR issues an objection to an application other than an objection because an applicant is under auditor in litigation with the department issuing the objection, the applicant has six months to clear the objection or the application shall be cancelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309

(November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 42:

§1117. The Contract

A. The board, after no objection from the executive director of the LWC and secretary of the LDR, and with the approval of the governor, may enter into a contract with an employer for a period up to five years.

1. - 5. ...

6. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location.

B. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 42:

§1123. Rebate Claim Filing

A. Payroll Rebate

1. An annual certification and a fee of \$250 shall be filed annually, commencing within six months after completion of the applicant's fiscal year or execution of the contract, whichever is later. The department may grant an extension of up to an additional six months provided the extension is requested prior to the filing deadline. Failure to file an annual certification within the prescribed timeframe may result in the annual rebate being denied or restricted. An annual certification is required in each year the contract is active, irrespective of whether annual rebates are being claimed.

2. - 6. ...

B. Sales and Use Tax Rebate or Investment Tax Credit

1. An annual employee certification report with a \$250 annual employee certification report fee must be filed on all active contracts for the employer to qualify for the sales and use tax rebate or investment tax credit under this Chapter. Employers must meet the requirements of the Enterprise Zone legislation and rules to qualify.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003), amended by the Office of Business Development, LR 37:2594 (September 2011), LR 42:

§1133. Applicability of Act 126 of the 2015 Legislative Session to the Quality Jobs Program

A. Pursuant to Act 126 of the 2015 Regular Session of the Louisiana Legislature:

1. for projects filing an advance notification on or after July 1, 2015, from July 1, 2015, through June 30, 2018, annual payroll rebates will be approved for payment at a rate of 5 percent or 6 percent (as applicable) multiplied by 80 percent of payroll. Payroll rebates approved on and after July 1, 2018, will be calculated on 100 percent of payroll.

However, annual payroll rebates claims that are due before July 1, 2018, but not timely filed are subject to reduction in the discretion of the Board of Commerce and Industry;

2. projects filing advance notification before July 1, 2015, are not affected by Act 126, and payroll rebates will be calculated on 100 percent of payroll irrespective of date of approval for payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 42:

Family Impact Statement

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed rulemaking should have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments to Danielle Clapinski, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Office of the Secretary, Second Floor, 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be sent by email to danielle.clapinski@la.gov. All comments must be received no later than 5 p.m., on November 23, 2015.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on November 24, 2015 at 10 a.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Quality Jobs Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no incremental costs or savings to state or local governmental units due to the implementation of the proposed rules. The Department of Economic Development intends to administer the program with existing personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Acts 126 and 361 of the 2015 legislative session amended the Quality Jobs Program (QJP). For a period from July 1, 2015 until June 30, 2018, Act 126 reduces the amount of new payroll eligible for payroll rebates from 100% of new payroll down to 80% of new payroll for projects whose advance notification was filed on or after July 1, 2015. This legislative change was expected to result in a net revenue increase to the state general fund of \$0 for FY 16, \$1.8 million in FY 17 and \$5.4 million in FY 18. However, LED interprets the Act to allow all QJP approvals (instead of advance notice filings) after 6/30/18 to

revert back to a rebate calculation based on 100% of the payroll, which means current law could allow a delay that may eventually result in projects receiving a rebate on 100% of payroll. This was not contemplated in the legislation or the fiscal note and may result in fewer claims in the QJP in early years but a large amount of claims beginning in FY 19, as projects wait for the larger rebates.

Act 361 provided for a new fee schedule for LED. Under the new fee schedule, the Quality Jobs Program will receive increased application fees equaling \$180,000 in agency self-generated revenues for FY 16 – FY 18. The addition of both of these revenue increases results in a net revenue increase to the state of roughly \$180,000 for FY 16, \$1.98 million in FY 17 and \$5.58 million in FY 18. In addition, Act 126 clarifies the deadline for applications stating that applications are due no later than 24 months after the filing of the project advance notification; however this will have no material fiscal impact on the program.

Lastly, the rule change limits the amount of time a company has to clear an objection from either LDR or LWC before cancellation of their application. This change should also have no material fiscal impact on the Quality Jobs Program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The income of companies participating in the program will decrease by the increase in state general fund as fewer credits are anticipated to be paid out due to the legislation. In addition, the income of applicants will decrease by the amount of the application fee they will now owe at the time of reservation of credits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits. While employment may increase in participating businesses, employment may be lessened in other competing businesses that do not participate in the program.

Anna G. Villa
Undersecretary
1510#054

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development**

Louisiana Digital Media and Software Act
(LAC 61:I.1667)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development has initiated rulemaking procedures to make amendments to the Rules for the Louisiana Digital Media and Software Tax Credit Program to bring the rules into compliance with current statutory provisions and administrative practices.

**Title 61
REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 16. Louisiana Entertainment Industry Tax
Credit Programs**

**Subchapter D. Louisiana Digital Media and Software Act
§1667. Certification Procedures**

A. Application

1. - 1.d. ...

2. An application fee in the amount equal to 0.5 percent of the total estimated tax credits with a minimum fee of \$500 and a maximum fee of \$15,000 shall be submitted with each application.

3. Expenditure verification report fee. Upon project completion, or no more than once annually, the department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's cost report of production or project expenditures. Applicants shall submit an advance deposit at the time of application, or for projects with on-going approved activity, may submit a request for a supplemental annual verification report and submit a corresponding supplemental advance deposit, and shall later be assessed the department's actual cost based upon an hourly rate not to exceed \$250, in the amounts set forth below:

a. For applicants with project expenditures less than one million dollars, an advance deposit of \$7,500, with a maximum fee of \$15,000;

b. For applicants with project expenditures greater than one million dollar, an advance deposit of \$15,000, with a maximum fee of \$25,000.

c. Any unused balance shall be refunded to the applicant within sixty days following receipt of CPA's final invoice and payment of all CPA costs.

B. - B.3.b.ii.(d). ...

c. For applications for state-certified productions submitted to the office on or after July 11, 2011 but before July 1, 2015, and subsequently approved by the office and the secretary, tax credits shall be earned by an approved digital media company as follows.

i. Expenditures made after July 1, 2009 shall earn tax credits at the rate of 25 percent of the base investment.

(a). To the extent that base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, a company shall earn additional tax credits at the rate of 10 percent of payroll.

(b). The initial certification shall be effective for expenditures made no more than six months prior to the date of initial certification and shall be valid until the project is completed.

(c). The production shall be considered complete when it receives its first commercial release, or other appropriate benchmark as agreed to between the parties and outlined in the initial certification.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Monday, November 30, 2015 at the Department of Economic Development, 1301 North Third Street, Baton Rouge, LA.

Anne G. Villa
Undersecretary, LED

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Digital Media and Software Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 412 of the 2015 Legislative Session requires the production of an expenditure verification report to assess submitted program expenditures to be prepared by a CPA. The Department of Economic Development intends to administer the program with existing personnel. Costs related to verification reports will be paid to the agency by the applicant within the guidelines of Act 361 and used to reimburse the CPA chosen by the Department. In the event verification report expenses exceed the maximum, the department will absorb the difference within its budget. The estimated cost based on historical activity is \$1.35M annually per the Act 412 fiscal note.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 361 of the 2015 Legislative Session provides for the recovery costs for incentives or assistance granted by the department and authorizes the establishment of fees by rule promulgated in the APA, setting maximum fee amounts for the following documents filed with LED for purposes of the Digital Interactive Media and Software Tax Credit Program, specifically application fees and costs of a statutorily required verification report. Assuming similar activity to FY 15, agency self-generated revenue for the application fees would increase by about \$206,000 in each of FY 16, FY 17, and FY 18 and by about \$1.35M annually for reimbursement for verification reports, which will be used to repay the CPA chosen by the department.

Act 125 of the 2015 legislative session provides for a temporary 28% credit rate reduction for a variety of programs, between July 1, 2015 and June 30, 2018, including the digital media & software tax credit program. Digital media applications received by LED on or after July 1, 2015 and before June 30, 2018 are now potentially eligible for a reduced 28% tax credit (18% for base investment & 7.2% for Louisiana resident payroll). To date 795 applications have been received, and approximately \$53 million in total credits certified as follows: FY10-\$1.4 million; FY11-\$4.4 million; FY12-\$7.7 million; FY13-\$11.8 million; FY14-\$16 million; FY15-\$8 million; FY 16 - \$3.1 million. LED will likely issue both credits for pre 7/1/15 projects that have earned at the higher rate of 35%, & credits for post 7/1/15 projects that have earned at the lower rate of 28% during this three year reduced period, and therefore there will likely be a net increase in state revenue with the fiscal impact dependent upon the timing of claims over the fiscal years. The fiscal note for this bill assumed a 28% reduction in the program figure reported in the Tax Exemption Budget of \$160,000 as the estimate of the SGF reduction distributed according to historical timing of claims (annually 20%, 40%, 30%, 10%) each year or a SGF increase of \$900,000, \$2.6M, and \$4M in the first 3 years.

d. For applications for state-certified productions submitted to the office on or after July 1, 2015, and subsequently approved by the office and the secretary, tax credits shall be earned by an approved digital media company at the prevailing statutory rate, currently as follows.

i. Qualifying expenditures made within the approved six-month "look back period" but prior to July 1, 2015 shall earn tax credits at the rate of 25 percent of the base investment, qualifying expenditures made after July 1, 2015 shall earn tax credits at the prevailing statutory rate, currently 18 percent of the base investment

ii. To the extent that base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, qualifying expenditures made prior to July 1, 2015 shall earn tax credits at 10 percent of payroll, qualifying expenditures made after July 1, 2015 shall earn tax credits at the prevailing statutory rate, currently 7.2 percent of payroll.

iii. The initial certification shall be deemed effective from date of application and shall be valid for qualifying expenditures and activities as outlined between the parties in the initial certification letter.

C. - D.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6022 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:633 (April 2009), amended LR 36:1983 (September 2010), LR 39:1011 (April 2013), LR 42:

Family Impact Statement

It is anticipated that the proposed Rule amendment will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed rulemaking will have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons should submit written comments on the proposed Rules to Thomas Tyler through the close of business on Tuesday, November 24, 2015 at P.O. Box 94185, Baton Rouge, LA 70804-9185 or via email to Thomas.Tyler@la.gov.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The income of businesses participating in the program will decrease by the amount of increased fees and reduced credit. The applicant will submit an application fee and verification report advance fee upon application, but, besides the application fee, will only be liable for the actual cost of the verification report, within a minimum and maximum range, and will be refunded any excess. Historically, applicants have paid for the verification report but not through the agency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits; however, the degree of competitive advantage will decrease with these participating companies having to pay increased fees.

Anne G. Villa
Undersecretary
1510#060

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development**

Louisiana Sound Recording Investor Tax Credit Program
(LAC 61:I.Chapter 16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development has initiated rulemaking procedures to make amendments to the rules for the Louisiana Sound Recording Investor Tax Credit Program to bring the rules into compliance with current statutory provisions and administrative practices.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter C. Louisiana Sound Recording Investor Tax Credit Program

§1633. Definitions

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

* * *

Production Expenses—production expenditures in the state directly relating to and proportionate with work performed in Louisiana on a state certified production. In qualifying submitted expenditures as production-related costs LED may determine whether such expenditures represent legitimate expenditures for the actual cost of related goods or services, having economic substance and a business purpose related to the certified production and not constructive dividends, self-dealing, inflated prices or similar transactions entered into for the purpose of inflating the amount of tax credits earned rather than for the benefit of

the production. See §1641 for illustrative examples of expenditures commonly associated with sound recording production projects.

Related Party Transaction—a transaction between parties deemed to be related by common ownership or control under generally accepted auditing principles.

Resident—a person domiciled in the state. Proof of domicile may include, but not be limited to, a driver's license issued by the state of Louisiana, or similar evidence which reasonably establish both identity and residency.

* * *

Series—a series of sound recordings occurring over a 12-month period may be considered for qualification. Illustrative examples of a permissible series include recordings made by a single artist or a singularly titled radio broadcast series. When determining eligibility the department shall consider common attributes, business purpose of the transactions and any other relevant factors. Combining multiple productions or recordings solely to achieve minimum spending requirements is not permitted.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1347 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:304 (February 2010), LR 42:

§1635. Rules of Application

A. The sound recording investor tax credit authorized by R.S. 47:6023(C) may be earned and claimed as follows.

1. There is authorized a credit against the state income tax for investments made in state-certified productions and state-certified sound recording infrastructure projects, which credit will be earned by investors at the time expenditures are certified by the Louisiana Department of Economic Development according to the total base investment certified for the sound recording production company per calendar year. No credit shall be allowed for any expenditures for which a credit was granted under R.S. 47:6007.

2. Applicants meeting the following criteria shall be eligible to receive tax credits as follows:

a. for state-certified productions initially certified prior to July 1, 2015:

i. 25 percent tax credit, if the total base investment is more than \$15,000, or if a resident of this state, if the total base investment is more than \$5,000;

b. for state-certified productions initially certified on and after July 1, 2015:

i. 18 percent tax credit, if the total base investment is more than \$15,000, or if a resident of this state, if the total base investment is more than \$5,000.

3. - 6. ...

7. Application Fee. Applicants with project expenditures greater than \$15,000 shall submit a \$250 fee with each application. LED shall waive the application fee for applicants with project expenditures up to \$15,000.

8. Expenditure Verification Report Fee. The department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's

cost report of production or project expenditures. Applicants shall submit an advance deposit at the time of application, and shall later be assessed the department's actual cost based upon an hourly rate not to exceed \$250, in the amounts set forth below:

a. for applicants with project expenditures greater than \$5,000 but less than \$50,000, an advance deposit of \$2,500, with a maximum fee of \$5,000;

b. for applicants with project expenditures greater than \$50,000, an advance deposit of \$5,000, with a maximum fee of \$15,000;

c. any unused balance shall be refunded to the applicant within 60 days following receipt of CPA's final invoice and payment of all CPA costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1348 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:305 (February 2010), LR 42:

§1637. Certification

A. Initial Certification of State-Certified Productions

1. - 3.b. ...

* * *

4. The initial certification shall be effective for expenditures made no more than 12 months prior to the date of application and shall be valid until the project is complete.

B. Final Certification of Sound Recording Investor Tax Credits

1. Upon project completion, the applicant shall make a request to LED to proceed to final certification by submitting to the department a cost report of production expenditures to be formatted in accordance with instructions of the department. The applicant shall make all records related to the cost report available for inspection by the department and the CPA selected by the department to prepare the expenditure verification report. After review and investigation of the cost report, the CPA shall submit to the department an expenditure verification report. The department shall review such expenditures and shall issue a tax credit certification letter to the investors and the Louisiana Department of Revenue indicating the amount of tax credits certified for the state-certified production or state-certified infrastructure project.

1.a - 3. ...

4. Once certification of a project has been granted under the criteria established within this provision and pursuant to 47:6023, the granting of such credit will be based upon a first come, first serve basis of the approved cost report or audit and shall be set for a maximum aggregate amount not to exceed \$2,160,000 during any calendar year. For purposes of this Section the applicant will be considered the investor.

5. - 6.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1348 (July 2008), amended by the Department of Economic Development, Office of Business

Development, Office of Entertainment Industry Development, LR 36:305 (February 2010), LR 37:310 (January 2011), LR 42:

§1641. Illustrative examples of Production Expenses

A. Eligible. Eligible production expenditures shall include, but not be limited to, studio rental, musician/performance fees, travel and airfare if booked through a Louisiana travel agent, producer fees within limitation, legal fees within limitation, music copying fees, orchestration fees, music publishing/ clearance fees, and fees for mixing and mastering only on recordings originally made in Louisiana.

B. Ineligible. Ineligible costs include, but are not limited to, CD duplication, costs for marketing and distribution and any costs associated with filming/ video.

C. Limitations for Certain Transactions

1. Related Party Transactions. LED may request and use additional information in determining the extent to which expenditures for related party transactions will be certified, by requesting and obtaining documentation including, but not limited to, third-party contracts, notarized affidavits, tax records, W2's, 1099's and cancelled checks. Related party transactions may be referred to the Office of the Inspector General for further review.

2. Producer fees may be limited to no more than 20 percent of base investment.

3. Legal fees shall be limited to no more than 10 percent of base investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

Family Impact Statement

It is anticipated that the proposed Rule amendment will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed rulemaking will have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons should submit written comments on the proposed rules to Philip Mann through the close of business on Tuesday, November 24, 2015 at P.O. Box 94185, Baton Rouge, LA 70804-9185 or via email to Philip.Mann@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 11 a.m. on November 25, 2015 at the Department of Economic Development, 1301 North Third Street, Baton Rouge, LA.

Anne G. Villa
Undersecretary, LED

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Louisiana Sound Recording Credit Investor Tax Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 412 of the 2015 Legislative Session requires the production of an expenditure verification report to assess submitted program expenditures to be prepared by a CPA. The Department of Economic Development intends to administer the program with existing personnel. Costs related to verification reports will be paid to the agency by the applicant within the guidelines of Act 361 and used to reimburse the CPA chosen by the Department. In the event verification report expenses exceed the maximum, the department will absorb the difference within its budget. The estimated cost based on historical activity is \$517,000 annually (combined with the Live Performance credit) per the Act 412 fiscal note.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 361 of the 2015 Legislative Session provides for the recovery costs for incentives or assistance granted by the department and authorizes the establishment of fees by rule promulgated in the APA, setting maximum fee amounts for the following documents filed with LED for purposes of the Sound Recording Investor Tax Credit Program, specifically application fees and costs of a statutorily required verification report. Assuming similar activity to FY 15, agency self-generated revenue for the application fees would increase by about \$5,600 in each of FY 16, FY 17, and FY 18 and by about \$517,000 annually for reimbursement for verification reports (when combined with the Live Performance credit), which will be used to repay the CPA chosen by the department.

Act 125 of the 2015 legislative session provides for a temporary 28% credit rate reduction for a variety of programs, between July 1, 2015 and June 30, 2018, including the sound recording production income tax credit program. Production projects initially certified by LED on or after July 1, 2015 are now potentially eligible for a reduced tax credit. Based upon a sliding scale for expenditures, the credit rate for projects in excess of \$15,000 or \$5,000 if a Louisiana resident will be reduced from 25% to 18%. To date 234 applications have been received, and approximately \$1.5 million in total credits certified as follows: FY10-\$200,000; FY11-\$390,000; FY12-\$124,000; FY13-\$107,000; FY14-\$252,000; FY15-\$354,000; FY 16 - \$75,000. LED will likely issue both credits for pre 7/1/15 projects that have earned at the higher rate & credits for post 7/1/15 projects that have earned at the lower rate during this three year reduced period, and therefore there will likely be a net increase in state revenue with the fiscal impact dependent upon the timing of claims over the fiscal years. The Act also reduces annual program cost cap from \$3M to \$2.16M. The fiscal note for this bill assumed a 28% reduction in the program figure reported in the Tax Exemption Budget of \$160,000 as the estimate of the SGF reduction distributed according to historical timing of claims (annually 20%, 40%, 30%, 10%)

each year or a SGF increase of \$9,000, \$26,000, \$40,000 in the first 3 years. In the fiscal note, the cap reduction was not expected to be binding but would reduce SGF up to \$840,000 if it did constrain program spending.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The income of businesses participating in the program will decrease by the amount of increased fees and reduced credit. The applicant will submit an application fee and verification report advance fee upon application, but, besides the application fee, will only be liable for the actual cost of the verification report, within a minimum and maximum range, and will be refunded any excess. Historically, applicants have paid for the verification report but not through the agency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits; however, the degree of competitive advantage will decrease with these participating companies having to pay increased fees and obtaining a reduced credit.

Anne G. Villa
Undersecretary
1510#061

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development Office of Entertainment Industry Development

Motion Picture Investor Tax Credit Program (LAC 61:I.Chapter 16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development has initiated rulemaking procedures to make amendments to the rules for the Motion Picture Investor Tax Credit Program to bring the rules into compliance with current statutory provisions and administrative practices.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter A. Motion Picture Investor Tax Credit Program

§1607. Certification Procedures

A. Application and Expenditure Verification Report Fees

1. An application for initial certification shall be submitted with an application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of \$500, and a maximum fee of \$15,000, payable to the office, as required by R.S. 36:104.

a. - b.ii.(j). ...

c. Expenditure Verification Report Fee. The department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's cost report of production or project expenditures. Applicants

shall submit an advance deposit at the time of application, and shall later be assessed the department's actual cost based upon an hourly rate not to exceed \$250, in the amounts set forth below:

i. for applicants with project expenditures greater than \$50,000 but less than \$300,000, an advance deposit of \$5,000, with a maximum fee of \$10,000;

ii. for applicants with project expenditures greater than \$300,000 but less than \$25,000,000, an advance deposit of \$7,500, with a maximum fee of \$15,000;

iii. for applicants with project expenditures greater than \$25,000,000, an advance deposit of \$15,000, with a maximum fee of \$25,000;

iv. if CPA actual costs exceed the advance deposit, the applicant will be billed and LED will not issue any pending final certification letter until receipt of any outstanding balance. Any unused balance shall be refunded to the applicant within 60 days following receipt of CPA's final invoice and payment of all CPA costs;

v. if at the time of application for initial certification, the department is notified that post-production activities will take place in Louisiana, and subsequently such activities are performed in Louisiana, a supplemental request for certification of expenditures directly relating to such post-production activity may be submitted. An advance deposit fee of \$7,500 shall be due at time of request for a supplemental verification report, and applicant will again be liable for the actual costs subject to the conditions set forth above.

B. - E.2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:55 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 37:514 (February 2011), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

Subchapter B. Louisiana Filmmakers Grant Fund Program

§1615. Preamble and Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and Office of Entertainment Industry Development, LR 37:515 (February 2011), repealed by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1616. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and Office of Entertainment Industry Development, LR 37:515 (February 2011), repealed by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1617. General Principles

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and Office of Entertainment Industry Development, LR 37:516 (February 2011), repealed by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1619. Program Descriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and Office of Entertainment Industry Development, LR 37:516 (February 2011), repealed by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1621. Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and Office of Entertainment Industry Development, LR 37:516 (February 2011), repealed by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1623. Criteria

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and Office of Entertainment Industry Development, LR 37:516 (February 2011), repealed by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1625. Application Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and Office of Entertainment Industry Development, LR 37:516 (February 2011), repealed by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1627. Submission and Review Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and Office of Entertainment Industry Development, LR 37:516 (February 2011), repealed by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1629. General Award Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and

Office of Entertainment Industry Development, LR 37:517 (February 2011), repealed by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

Family Impact Statement

It is anticipated that the proposed Rule amendment will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed rulemaking will have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons should submit written comments on the proposed rules to Stephen Hamner through the close of business on Friday, November 27, 2015 at P.O. Box 94185, Baton Rouge, LA 70804-9185 or via email to Stephen.Hamner@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 2 p.m. on Monday November 30, 2015 at the Department of Economic Development, 1301 North Third Street, Baton Rouge, LA.

Anne G. Villa
Undersecretary, LED

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Motion Picture Investor Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 412 of the 2015 Legislative Session requires the production of an expenditure verification report to assess submitted program expenditures to be prepared by a CPA. The Department of Economic Development intends to administer the program with existing personnel. Costs related to verification reports will be paid to the agency by the applicant within the guidelines of Act 361 and used to reimburse the CPA chosen by the Department. In the event verification report expenses exceed the maximum, the department will absorb the difference within its budget. The estimated cost based on historical activity is \$2.5M annually.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 361 of the 2015 legislative session provides for the recovery of costs for incentives or assistance granted by the department and authorizes the establishment of fees by rule promulgated in the APA, setting maximum fee amounts for the following documents filed with LED for purposes of the Motion Picture Tax Credit Program, specifically application fees and costs of a statutorily required verification report. Assuming similar activity to FY 15, agency self-generated revenue for increased application fees would increase by about \$400,000 in FY 16, FY 17, and FY 18 and by about \$2.5M annually for reimbursement for verification reports, which will be used to repay the CPA chosen by the department.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The income of businesses participating in the program will decrease by the amount of increased fees. The applicant will submit an application fee and verification report advance fee upon application, but only be liable for the actual cost of the verification report, within a minimum and maximum range, and will be refunded any excess. Historically, applicants have paid for the verification report but not through the agency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits; however, the degree of competitive advantage will decrease with these participating companies having to pay increased fees.

Anne G. Villa
Undersecretary
1510#059

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development Office of Entertainment Industry Development

Musical and Theatrical Production Income Tax
Credit Program (LAC 61:I.1693, 1695, 1701, and 1703)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development has initiated rulemaking procedures to make amendments to the rules for the Musical and Theatrical Production Income Tax Credit Program to bring the rules into compliance with current statutory provisions and administrative practices.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter E. Musical and Theatrical Production Income Tax Credit Program

§1693. Certification Procedures

A. Application and Expenditure Verification Report Fees

1. An application for a state-certified production or a state-certified infrastructure project shall be submitted to the department, including:

a. all information required by R.S. 47:6034(E)(2)(a);

b. an application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of \$500, and a maximum fee of \$15,000; and

c. the applicant shall provide additional information upon request.

2. Each application shall identify only one production or infrastructure project and only one contact person for such production or project.

3. Expenditure Verification Report Fee. The department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's cost report of production or project expenditures. For projects in excess of \$50,000, the fees shall be as follows:

a. at the time of application, the applicant shall submit an advance deposit of \$5,000;

b. prior to final certification of any tax credits, the applicant shall be assessed the department's actual cost for the CPA's expenditure report. The maximum fee shall be \$15,000.

B. - E.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2175 (October 2009), repromulgated LR 36:2238 (October 2010), amended LR 39:1016 (April 2013), LR 42:

§1695. Additional Program Procedures—State-Certified Musical or Theatrical Production—Receiving Initial Certification prior to July 1, 2015

A. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2175 (October 2009), repromulgated LR 36:2239 (October 2010), amended LR 39:1017 (April 2013), repromulgated LR 42:

§1701. Additional Program Procedures—State-Certified Musical or Theatrical Production—Receiving Initial Certification on or after July 1, 2015

A. State-certified musical or theatrical productions receiving initial certification on or after July 1, 2015 shall be eligible for the following types of tax credits at the prevailing statutory rates, currently as follows:

1. Base Investment Credit

a. If the total base investment is more than \$100,000 dollars, but less than \$300,000 dollars, a tax credit of 7.2 percent applies.

b. If the total base investment is more than \$300,000 dollars, but less than \$1,000,000 dollars, a tax credit of 14.4 percent applies.

c. If the total base investment is more than \$1,000,000 dollars, a tax credit of 18 percent applies.

2. Louisiana Resident Payroll Credit. To the extent that base investment is expended on payroll for Louisiana residents, an additional tax credit of 7.2 percent applies.

3. Louisiana Student Credit. To the extent that base investment is expended to employ students enrolled in

Louisiana colleges, an additional tax credit of 0.072 percent applies.

B. Louisiana Resident Payroll Cap. To the extent that base investment is expended on payroll for Louisiana residents, the additional payroll credit shall exclude any payroll amounts paid to one person exceeding \$1,000,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1703. Additional Program Procedures—State-Certified Higher-Education Musical or Theatrical Infrastructure Projects—Receiving Initial Certification on or after July 1, 2015

A. State-certified higher-education musical or theatrical infrastructure projects receiving initial certification on or after July 1, 2015 shall be eligible for the following types of tax credits at the prevailing statutory rates, currently as follows:

1. base investment credit—qualifying expenditures made in Louisiana, on or before January 1, 2022, for the construction, repair or renovation of a state-certified higher education infrastructure project :

a. if the total base investment is more than \$100,000 dollars, but less than \$300,000 dollars, a tax credit of 7.2 percent applies;

b. if the total base investment is more than \$300,000 dollars, but less than \$1,000,000 dollars, a tax credit of 14.4 percent applies;

c. if the total base investment is more than \$1,000,000 dollars, a tax credit of 18 percent applies;

2. Louisiana resident payroll credit:

a. to the extent that base investment is expended on payroll for Louisiana residents, an additional tax credit of 7.2 percent applies;

b. \$1,000,000 salary cap. However, the additional payroll credit shall exclude any payroll amounts paid to one person exceeding \$1,000,000;

3. Louisiana student credit:

a. to the extent that base investment is expended to employ students enrolled in Louisiana colleges, an additional tax credit of 0.072 percent applies.

B. Program and Project Caps. No more than \$7.2 million in credits per project or \$43,200,000 in total program credits shall be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

Family Impact Statement

It is anticipated that the proposed Rule amendment will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed rulemaking will have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons should submit written comments on the proposed Rules to Philip Mann through the close of business on Tuesday, November 24, 2015 at P.O. Box 94185, Baton Rouge, LA 70804-9185 or via email to Philip.Mann@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 11 a.m. on November 25, 2015 at the Department of Economic Development, 1301 North Third Street, Baton Rouge, LA.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Musical and Theatrical Production Income Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 412 of the 2015 Legislative Session requires the production of an expenditure verification report to assess submitted program expenditures to be prepared by a CPA. The Department of Economic Development intends to administer the program with existing personnel. Costs related to verification reports will be paid to the agency by the applicant within the guidelines of Act 361 and used to reimburse the CPA chosen by the Department. In the event verification report expenses exceed the maximum, the department will absorb the difference within its budget. The estimated cost based on historical activity is \$517,000 annually (when combined with the Sound Recording credit) per the Act 412 fiscal note.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Acts 361, 412 and 125 of the 2015 legislative session provide for the recovery costs for incentives or assistance granted by the department and authorizes the establishment of fees by rule promulgated in the APA, setting maximum fee amounts for the following documents filed with LED for purposes of the Musical and Theatrical Production Income Tax Credit, specifically application fees and costs of a statutorily required verification report. Assuming similar activity to FY 15, agency self-generated revenue for the application fees would increase by about \$6,800 in each of FY 16, FY 17, and FY 18 and by about \$517,000 annually for reimbursement for verification reports (when combined with the Sound Recording credit), which will be used to repay the CPA chosen by the department.

Act 125 of the 2015 legislative session provides for a temporary 28% credit rate reduction for a variety of programs, between July 1, 2015 and June 30, 2018, including the musical

& theatrical production income tax credit program. Production projects initially certified by LED on or after July 1, 2015 are now potentially eligible for a reduced tax credit. Based upon a sliding scale for expenditures, the typical credit rate for projects in excess of \$1million will be reduced from 25% to 18%. To date 52 applications have been received, and approximately \$5.7 million in total credits certified as follows: FY10-\$0; FY11-\$900,000; FY12-\$790,000; FY13-\$1.2 million; FY14-\$247,000; FY15-\$2.2 million; FY 16 - \$384,000. LED will likely issue both credits for pre 7/1/15 projects that have earned at the higher rate & credits for post 7/1/15 projects that have earned at the lower rate during this three year reduced period, and therefore there will likely be a net increase in state revenue with the fiscal impact dependent upon the timing of claims over the fiscal years. The fiscal note for this bill assumed a 28% reduction in the program figure reported in the Tax Exemption Budget of \$8,000,000 as the estimate of the SGF reduction distributed according to historical timing of claims (annually 20%, 40%, 30%, 10%) each year or a SGF increase of \$500,000, \$1.3M, \$2M in the first 3 years.

Act 125 also provides for a temporary program cap reduction to the higher education infrastructure program from \$60 million to \$43 million and a project cap reduction from \$10M to \$7.2M. To date there have been no applications for this program and LED has no historical data to infer either an increase or decrease in state revenue at this time.

New rates specified as "of one percent" are interpreted as a 28% reduction of the old law in keeping with the intent of the legislation and prior interpretation of similar language.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The income of businesses participating in the program will decrease by the amount of increased fees and reduced credit. The applicant will submit an application fee and verification report advance fee upon application, but, besides the application fee, will only be liable for the actual cost of the verification report, within a minimum and maximum range, and will be refunded any excess. Historically, applicants have paid for the verification report but not through the agency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits; however, the degree of competitive advantage will decrease with these participating companies having to pay increased fees.

Anne G. Villa
Undersecretary
1510#058

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and
Development Fund Programs
(LAC 28:CLXV.103, Chapter 5, and 903)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CLXV, *Bulletin 139—Louisiana Child Care and Development Fund Programs*: §103, Definitions; §501, Certification of Household Eligibility for Participation in CCAP; §503, Children Eligible for CCAP; §505, Households Categorically Eligible for CCAP; §507, Certification

Requirements for Categorically Eligible Households; §509, Certification Requirements for Non-Categorically Eligible Households; §511, Household Certification Period; §513, Prioritization of Funding; §515, Payments Made on Behalf of Households; §517, CCAP Household Reporting Requirements; §519, Termination or Refusal of Renewal of Household Certification and Ineligibility Periods for Households; §521, Recovery of Payments Made on Behalf of Ineligible Households; and §903, Participation in LA Pathways. As part of the child care and development fund (CCDF) transition, per by Act 868 (2014), BESE approved the establishment of Bulletin 139 at the March 2015 meeting and also approved revisions to the policy at the April 2015 meeting. The proposed revisions increase eligibility to at least one year, increase subsidy rates, and reduce copays.

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 1. Child Care Assistance Program

§103. Definitions

* * *

CCAP Household—a household certified by the department as eligible for participation in CCAP.

* * *

Head of Household—an individual with whom the child customarily resides more than half the time. The head of household is either the child's parent or an adult household member with primary responsibility for the child's financial support and care, if the parent is not living in the home or is living in the home but is under age 18 and not emancipated by law, or is disabled and is unable to care for himself and his child(ren).

* * *

Household—a group of individuals living together that consists of a head of household, that person's legal spouse or non-legal spouse, disabled adult parents who are unable to care for themselves or their child(ren) who are in need of child care, and all children under the age of 18 who are dependent on the head of household or spouse, including the minor unmarried parents (MUPs) who are not legally emancipated, and children of MUPs.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 5. CCAP Household Eligibility

§501. Certification of Household Eligibility for Participation in CCAP

A. The household in which a child in need of child care resides must be certified by the department as eligible for participation in the Child Care Assistance Program (CCAP) in order to have CCAP payments made to a child care provider for the care of the child. No CCAP payments may be made for care of the child until the household in which the child resides is certified by the department.

B. To be certified as a CCAP household, a household must meet all eligibility requirements set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§503. Children Eligible for CCAP

A. A child is eligible for CCAP if the child:

1. is in need of child care;
2. is under age 13, or is age 13-17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of supplemental security income (SSI), or who is under court supervision;
3. customarily resides more than half the time with the person (head of household) who is applying for CCAP. A child is still considered to be residing with the head of household for up to six weeks of scheduled absences from the home or early learning center, if there are definite plans for the child to return to the home or early learning center;
4. is either a United States citizen or a qualified alien; and
5. is age-appropriately immunized according to the schedule of immunizations promulgated by DHH, Office of Public Health, or is in the process of receiving all age-appropriate immunizations, except that:

a. no child is required to comply with this Subparagraph if the child or his or her parent submits a written statement from a physician indicating that immunizations are contraindicated for medical reasons, or if the child or his or her parent objects to the immunizations on religious grounds;

b. verification of a child's age and immunization record may be waived for 90 days from the date the household is certified as eligible for participation in CCAP, if all members of the household meet the definition of *homeless* provided in §103, as long as all other eligibility requirements provided in this Section are met.

B. The department shall work with members of the Early Childhood Care and Education Advisory Council to develop a proposal related to the CCAP eligibility requirements and payments for children with special needs by March 2016.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§505. Households Categorically Eligible for CCAP

A. Households are categorically eligible for CCAP if they have household members who are:

1. recipients of Family Independence Temporary Assistance Program (FITAP) who are satisfactorily participating in the Strategies to Empower People (STEP) Program;
2. children in foster care; or
3. experiencing homelessness.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§507. Certification Requirements for Categorically Eligible Households

A. To be certified as a CCAP household, categorically eligible households must:

1. include at least one child who is eligible for CCAP as provided in §503.A;
2. reside in Louisiana;

3. participate in the system designated by the department for capturing time and attendance, which may include finger imaging for the heads of household and household designees; and

4. be current on payment of CCAP co-payments to any current or former provider and provide documentation needed to verify that no co-payments are owed to any provider when:

a. the household submits notice of a change in provider; and

b. a provider reports that the household owes co-payments.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§509. Certification Requirements for Non-Categorically Eligible Households

A. To be certified as a CCAP household, households that are not categorically eligible for participation in CCAP must meet the following requirements:

1. include at least one child who is eligible for CCAP as provided in §503.A;

2. meet all criteria provided in §507.A;

3. have household income that does not exceed 55 percent of the state median income for a household of the same size. *Household income* is defined as:

a. the gross earnings of the head of household, that person's legal spouse or non-legal spouse, and any MUP who is not legally emancipated and whose children are in need of CCAP care, with the exception of income from:

i. Corporation for National and Community Service (CNCS);

ii. college work study; and

iii. disaster-related employment;

b. recurring unearned income of the following types for all household members:

i. Social Security Administration benefits;

ii. supplemental security income;

iii. Veterans' Administration benefits;

iv. retirement benefits;

v. disability benefits;

vi. child support or alimony;

vii. unemployment compensation benefits;

viii. adoption subsidy payments; and

ix. workers' compensation benefits;

4. provide the information and documentation necessary for determining the household eligibility and the amount of the monthly CCAP payment to be made to the provider; and

5. training or employment activities.

a. Unless disabled as established by receipt of Social Security Administration disability benefits, supplemental security income, Veterans' Administration disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his or her child(ren), as verified by a doctor's statement or by worker determination, the head of household must meet the training or employment activity requirements of:

i. being employed for a minimum average of 30 hours per week and all countable employment hours must be paid at least at the federal minimum hourly wage;

ii. attending a job training or educational program for a minimum average of 30 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

iii. being engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or job training, or education as defined in Subparagraph b of this Paragraph that averages at least 30 hours per week.

b. Exception. The employment and training activity requirements provided in this Paragraph may be waived for a period of 180 days from the effective date of certification of eligibility for parents or persons acting as parents who are experiencing homelessness and who demonstrate that they are seeking employment or participating in a transitional living program as defined in §103. There is a six-month lifetime maximum for this exception.

c. Exception. If the number of children served drops below 12,500 and funding is available, the 30-hour training and/or employment requirement referenced in this Section may be reduced by the department until 12,500 children are being served.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§511. Household Certification Period

A. Eligible households may be certified for up to 24 months except as provided in Subsection B of this Section.

B. Households relying on the exception to eligibility requirements for parents and persons acting as parents who are experiencing homelessness, as provided in §509.A.5.c, and that have the 30 hours per week employment and training requirement waived, may be certified for up to six months.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§513. Prioritization of Funding

A. Prioritization

1. Children of a STEP participant whose FITAP eligibility has been terminated due to earned income shall be given priority status with seats available for them as long they meet the eligibility requirements provided in §509 and funding is available.

2. Children in foster care and children with special needs shall be given priority status should it be necessary for a waiting list to be established. Children with special needs will be given priority status with seats available for them as long as they meet the eligibility requirements in either §507 or §509, whichever is applicable.

3. After all available slots are filled, a statewide waiting list of eligible households or eligible children shall be established and maintained. Households on the waitlist shall be classified based on priority and need. As seats become available, households will be released from the waiting list and considered for current eligibility.

B. The department has the authority to implement an application freeze based on the lack of available child care funds to operate CCAP.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§515. Payments Made on Behalf of Households

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Type III Early Learning Center	\$21.50	\$22.50	\$25.65	\$26.65
School Child Care Center	\$15.00	\$16.00	\$18.50	\$19.50
Family Child Care Provider	\$15.00	\$16.00	\$18.50	\$19.50
In-Home Provider	\$14.50	\$15.50	\$17.90	\$18.90
Military Child Care Centers	\$21.50	\$22.50	\$25.65	\$26.65

B. Categorically Eligible Households

1. Payments made to providers on behalf of categorically eligible households will be the lesser of:

- a. the provider's actual charge multiplied by authorized service days or authorized service hours; or
- b. the state maximum daily rate for CCAP care as provided in Subsection A.

2. The number of days or hours authorized for payment is based on the lesser of the following:

- a. the time the child is actually in care each week;
- b. the number of hours the head of household, the head of household's spouse or non-legal spouse, or MUP is working or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or
- c. the time the child care is actually needed and available.

C. Non-Categorically Eligible Households

1. Payment made to providers on behalf of non-categorically eligible households will be determined using a sliding fee scale based on a percentage of state median income and federal poverty levels. The sliding fee scale will be revised on an annual basis to the extent that funds are available.

2. A non-categorically eligible household shall pay a portion of its monthly child care costs in accordance with the sliding fee scale, and this portion will be referred to as a "co-payment."

3. Payments to providers on behalf of non-categorically eligible households will be a portion of the lesser of:

- a. the provider's actual charge multiplied by the number of authorized service days or authorized service hours; or
- b. the state maximum daily rate for CCAP care as provided in Subsection A.

D. Payment is made to the provider after the child care has been provided.

E. Payment may be made to more than one provider for the same child if the combined payment does not exceed the maximum allowable per child.

F. Absences

1. Payment will not be made for absences of more than five days by a child in any calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month.

2. A day of closure, on a normal operating day for the provider, is counted as an absent day for the children in the provider's care.

3. If a child authorized for full-time care attends child care less than four hours in one day, the child will be counted as a half day absent and half the daily rate will be paid to the provider.

4. No absences will be authorized for part-time care.

5. In cases of federal, state, or locally declared emergency situations or other special circumstances, the department may waive these absence requirements.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§517. CCAP Household Reporting Requirements

A. A CCAP household shall report any change that affects CCAP eligibility or the calculation of the amount of the monthly CCAP payment.

B. Changes in the following shall be reported within 10 days of knowledge of the change:

- 1. changes in the household's gross monthly income, if the household's gross monthly income changes to more than 85 percent of state median income;
- 2. a change in provider; or
- 3. a child receiving CCAP leaves the household.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§519. Termination or Refusal of Renewal of Household Certification and Ineligibility Periods for Households

A. The department may terminate or refuse renewal of a household's certification and impose a period of ineligibility on the household for program violations, which include but are not limited to the following acts by a member of the household:

- 1. violation of any provision of this Chapter;
- 2. any act of fraud, such as the submission of false or altered documents or information, intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant fact;
- 3. failure to timely repay payment made to a provider on behalf of the ineligible household; or
- 4. failure to make timely restitution.

B. When a household's certification is terminated or renewal is refused, the department shall provide written notice to the household of the termination or denial of renewal, and of the household's ineligibility period, which may be up to 24 months or permanently.

C. If a household's certification is terminated or renewal is refused, the action shall become effective when the household is given written notice. The written notice shall give the reason for termination or refusal to renew certification and the period of ineligibility imposed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§521. Recovery of Payments Made on Behalf of Ineligible Households

A. All CCAP payments made on behalf of ineligible households are subject to action to recover the payments, with the exception of inadvertent household and administrative error claims in the amount of \$125 or less for households who are not currently participating in CCAP.

B. Action will be taken to recover all payments made on behalf of:

1. ineligible households that are currently participating in CCAP;

2. any ineligible household resulting from the household's act of fraud, such as the submission of false or altered documents or information, intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant fact; and

3. any ineligible household resulting from errors that are discovered in a quality control review.

C. If a household does not timely repay ineligible payments made on its behalf, other than those exceptions provided in Subsection A of this Section, the department may refer such unrecovered payments to the Office of the Attorney General for collection, and the household owing the payments shall be assessed, and shall be required to pay, the additional collection fee assessed by the Office of the Attorney General.

D. When a household member is suspected of any act of fraud, such as the submission of false or altered documents or information, intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant fact, the department may refer the case for prosecution.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 9. Louisiana Pathways Early Learning Center Career Development System (LA Pathways)

§903. Participation in LA Pathways

A. - B.6.c.i. ...

7. Director III

a. To receive an administrator certificate you must have 75 clock hours of instruction in approved administrative training categories.

b. Two college courses in approved administration can be substituted for the administrator certificate.

c. Training and education requirements:

i. CDA credential or approved early childhood diploma; and administrator certificate;

ii. associate degree in child development or early childhood and administrators certificate; or

iii. bachelor degree in early childhood or child development of which three college courses focus on infants and toddlers; and administrator certificate; or

iv. related bachelor degree with six college courses in early childhood or child development of which three courses focus on infants and toddlers and administrator certificate.

d. Experience requirements:

i. minimum two years.

e. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event.

8. Director IV

a. To receive an administrator certificate you must have 75 clock hours of instruction in approved administrative training categories.

b. Two college courses in approved administration can be substituted for the administrator certificate.

c. Training and education requirements:

i. master's degree in early childhood, child development or early childhood administration of which three courses focus on infants and toddlers and administrator certificate; or

ii. related master's degree with eight college courses in early childhood or child development of which three courses focus on infants and toddlers and administrator certificate.

d. Experience requirements:

i. minimum two years.

e. Professional activity requirements:

i. membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event.

C. - D.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

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.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and

kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m. November 8, 2015, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions increase eligibility up to 24 months, increase provider subsidy rates, and increase the number of paid absences from two to five days per month.

DOE expenditures of Child Care and Development Fund (CCDF) are projected to increase between \$5 M and \$12 M as a result of these changes. CCDF is an annual federal block grant awarded to support working families with low incomes by providing access to early care and afterschool programs. The annual award amount averages \$80 M. Federal regulations

provide parameters for obligating and liquidating these funds; generally within a two-year period. Historically, funds have not been fully expended before receipt of the next year's award resulting in a rolling carry forward balance, currently projected to be approximately \$25 M. DOE proposed revisions will increase the expenditure rate of the grant, thereby reducing any carry forward balances within a projected two to three year window. At that time, CCDF funds will either have to be reallocated to continue the provider payments at the increased rates for participants at the existing level; the number of participants at the new rate structure will have to be reduced; or DOE will need to identify another revenue source to replace the loss of the carry forward funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Low-income working families will receive higher stipends for child-care, reducing their out of pocket expenses, thereby giving families more options and making child care more affordable. Child-care providers will see a more stable and predictable participation rate. Teachers, in turn, may benefit from having child-care centers better able to provide higher wages, support, and training.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition. Retention of quality teachers in child-care settings should improve as wages likely improve under these policy changes.

Beth Scioneaux
Deputy Superintendent
1510#016

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Bylaws of the Advisory Committee to the Student Financial Assistance Commission (LAC 28:V.221 and 233)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend 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).

The proposed rulemaking will add certain schools to the membership of the commission's advisory committee and will change the term of members from two years to three years. The rulemaking also adds provisions to the business rules. (AC16166NI)

Title 28 EDUCATION

Part V. Student Financial Assistance—Higher Education Loan Program

Chapter 2. Bylaws of the Advisory Committee to the Student Financial Assistance Commission Subchapter C. Membership and Officers of the Committee

§221. Membership

A.1 - A.3. ...

B. Rotation of Members. Voting members shall rotate according to the following schedule.

1. Louisiana State University System:
 - a. Louisiana State University at Alexandria;
 - b. Louisiana State University at Shreveport;
 - c. Louisiana State University at Eunice;
 - d. Louisiana State University at Baton Rouge.
2. Southern University System:
 - a. Southern University at Baton Rouge. The initial term shall be for one year;
 - b. Southern University at New Orleans;
 - c. Southern University at Shreveport.
3. University of Louisiana System:
 - a. University of Louisiana at Monroe. The initial term shall be for one year;
 - b. Louisiana Tech University;
 - c. McNeese State University;
 - d. Nicholls State University;
 - e. Northwestern State University;
 - f. Southeastern Louisiana University;
 - g. University of Louisiana at Lafayette;
 - h. Grambling State University;
 - i. University of New Orleans.
4. Louisiana Community and Technical College System:
 - a. Delgado Community College. The initial term shall be for one year;
 - b. Baton Rouge Community College;
 - c. Bossier Parish Community College;
 - d. Louisiana Delta Community College;
 - e. Fletcher Technical Community College;
 - f. River Parishes Community College;
 - g. South Louisiana Community College;
 - h. SOWELA Technical Community College;
 - i. Louisiana Technical College;
 - j. Central Louisiana Technical Community College;
 - k. Northshore Technical Community College;
 - l. Northwest Louisiana Technical College;
 - m. Nunez Community College;
 - n. South Central Louisiana Technical College.
5. Professional schools:
 - a. Louisiana State University Health Sciences Center at New Orleans;
 - b. Louisiana State University Health Sciences Center at Shreveport;
 - c. Southern University Law Center;
 - d. Tulane Medical and Law School.
6. Louisiana Association of Independent Colleges and Universities:
 - a. Centenary College;
 - b. Dillard University;
 - c. Louisiana College;
 - d. Loyola University;
 - e. New Orleans Baptist Theological Seminary;
 - f. Our Lady of Holy Cross College;
 - g. Our Lady of the Lake College;
 - h. St. Joseph Seminary College;
 - i. Tulane University;
 - j. Xavier University.
7. Proprietary Schools
 - a. The Louisiana Career College Association shall rotate membership among the proprietary schools.
 - b. The rotation will ensure that all schools are offered membership before the rotation repeats.

8. Student—through September 30, 2010
 - a. A student member shall be selected by the financial aid officer who is a member of the advisory committee beginning with the member from the Louisiana State University System and rotating in the order of members listed above.
 - b. Student members shall serve one-year terms and may not serve two consecutive terms.
 - c. The student selected should be an employee of the financial aid office, have financial aid experience or otherwise have an interest in financial aid.

9. High School Counselors—beginning October 1, 2011

- a. One active public high school counselor selected by the Louisiana Student Counselor Association whose initial term shall be one year.
- b. One active non-public high school counselor selected by the Louisiana Student Counselor Association whose initial term shall be two years.

C. Term

1.a. The term of voting members shall be for two years except as indicated in §221.B above. Members may not serve two consecutive terms, except as indicated in §221.E.2 below.

b. Beginning with the 2015-2016 year, the term of voting members shall be for three years except as follows.

i. The term of the member selected by the Louisiana Student Counselor Association to represent non-public high schools for the 2015-2016 academic year shall be one year.

ii. The term of the member selected by the Louisiana State University System, the University of Louisiana System, and the Louisiana Association of Independent Colleges and Universities beginning in the 2015-2016 academic year shall be two years.

2. Terms shall be staggered.

3. Terms shall begin on October 1 of each year.

D. Notification of Membership

1. Except for the 2007-2008 academic year, LOSFA shall send a notice to the financial aid directors of the schools who are eligible to be members of the advisory committee no later than September 1 of each year. In the notice, LOSFA shall request confirmation of that financial aid director's willingness to serve as a member and the name of the financial aid director's designee, if there is one.

2. The financial aid director must submit the confirmation of membership by September 30 of that same year.

E. Replacements

1. If a financial aid director declines to participate or does not submit a timely confirmation, the next school in the rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director.

2. If a financial aid director is unable to complete his/her term for any reason, the financial aid director from the next school in the rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director. The replacement member shall complete the rest of the term and shall be eligible for membership for the next three-year term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007), LR 34:610 (April 2008), LR 37:2598 (September 2011), LR 42:

Subchapter D. Business Rules

§233. Order of Business

A. The order of business of regular meetings of the committee shall be as follows, unless the rules are suspended by a simple majority vote of the quorum present:

1. call to order;
2. roll call;
3. introductions and announcements;
4. corrections and approval of minutes of the preceding regular meeting and of all special meetings held subsequent thereto;
5. public comment;
6. reports and recommendations of subcommittees;
7. unfinished business; and
8. new business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 42:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (AC16166NI) until 4:30 p.m., November 10, 2015, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bylaws of the Advisory Committee to the Student Financial Assistance Commission

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rulemaking changes the Advisory Committee membership by modifying the rotation of some schools within the groups that supply committee members and increasing member terms from two to three years. These changes will have a minimal impact on costs since the only compensation allowed for committee members is reimbursement of travel

expenses, as applicable. In addition, the proposed order of business change is a technical change that will not have an impact on costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively
Senior Attorney
1510#014

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
Acts of the 2015 Regular Session
(LAC 28:IV.Chapter 20)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend 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).

This rulemaking amends the administrative rules to provide that applicants for the John R. Justice Loan Repayment Program must sign a program service agreement prior to being considered for an award and decreases the time period by which applicants must provide all supporting documentation to LOSFA. (SG16167NI)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education

Scholarship and Grant Programs

Chapter 20. John R. Justice Student Grant Program §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;
6. submit a completed John R. Justice Student Loan Program service agreement to LOSFA. If an applicant is not selected to receive an award, the agreement will be null and void.

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.

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 37:1387 (May 2011), amended LR 42:

§2007. Applicable Deadlines

A. Application Deadline

1. Applicants must complete and submit the on-line application each calendar year no later than April 30.

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 grants.

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

4. In the event all 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 20 days from the request.

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 37:1388 (May 2011), amended LR 38:1585 (July 2012), LR 42:

§2009. Service Agreement

Repealed.

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 37:1388 (May 2011), repealed LR 42:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG16167NI) until 4:30 p.m., November 10, 2015, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs

Acts of the 2015 Regular Session

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change requires prospective John R. Justice Student Loan Repayment Program participants to submit a completed John R. Justice Student Loan Program Service Agreement with their initial application and shortens the deadline for submission of other required documents by selected participants from 45 to 20 days after LOSFA's request. There is no fiscal impact from these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no significant impact on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected by the proposed change.

Robyn Rhea Lively
Senior Attorney
1510#013

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor

Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.4703 and 4761)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part III. Commission on Law Enforcement and
Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4703. Basic Certification

A. - A.2.c. ...

3. Level 3 Certification for Jailer Training Officers

a. The student will complete a training course with the minimum number of training hours specified by the council and is limited to those correctional officers whose duties are the care, custody, and control of inmates. This course consists of the core correctional officer curriculum. POST firearm certification for level 3 students is not required.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 28:475 (March 2002), LR 31:2008 (August 2005), LR 35:1235 (July 2009), LR 36:992 (May 2010), LR 37:1606 (June 2011), LR 42:

§4761. Advanced Training

A. Sexual Assault Awareness Training

1. On and after January 1, 2016, each full-time college or university peace officer shall complete a sexual assault awareness training program as provided by the council pursuant to R.S. 40:2405.8. The training program shall be implemented through a series of learning modules developed for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule has been considered. This proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it outlines the implementation of sexual assault awareness training for peace officers.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through post secondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of

the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirement or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on this proposed Rule no later than November 10, 2015 at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, P.O. Box 3133 Baton Rouge, LA 70821. An analysis of the proposed Rule shows that it will have no impact on the family as described in R.S. 49:972, nor any impact on small business as defined by Act 820 of 2008.

Joey Watson

Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Peace Officer Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change adds two hours to the current 90-hour jailer training course, which will now total 92 hours. The LA Commission on Law Enforcement (LCLE) will incur no additional costs associated with the proposed rule change, as agencies employing course attendees will be reimbursed \$100 by LCLE for their attendance, per LCLE's current policy. There is also no additional instructional cost to LCLE or local governmental entities, as LCLE already updates the jailer training course curriculum and provides materials to local law enforcement agencies free of charge. Local law enforcement agencies will incur marginal costs related to holding jailer training courses to the extent they deem them necessary.

In addition, pursuant to Act 152 of 2015, the proposed rule change establishes a start date for sexual assault training, which has no associated costs or savings to state or local governmental units as this rule does not entail any implementation aspects of the sexual assault training.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change adds two hours to the existing 90 hour jailer training course, which will now total 92 hours. The proposed rule has no financial effect on correctional officers required to take the jailer training course, as the fee for attendance and reimbursement rate of \$100 will remain the same.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not have an effect on competition and employment in the public or private sectors.

Joseph M. Watson
Executive Director
1510#039

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Group Benefits

Employee Benefits (LAC 32:I.317)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(1), vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to chapter 12 of title 42 of the *Louisiana Revised Statutes*, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend several provisions of Title 32 in the *Louisiana Administrative Code*. This action will enhance member clarification and provide for the administration, operation, and management of health care benefits effectively for the program and member. Accordingly, OGB hereby gives Notice of Intent to adopt the following rules to become effective January 20, 2016, unless promulgated thereafter, in which case they would become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part I. General Provisions

Chapter 3. Uniform Provisions—Participation in the Office of Group Benefits

§317. Change of Classification

A. Adding or Deleting Dependents. When a dependent is added to the enrollee's coverage due to a HIPAA special enrollment event or deleted from the enrollee's coverage consistent with a change in the dependent's status, as set forth in the applicable OGB health plan document, applications made by active enrollees shall be provided to their HR liaison and applications made by retired enrollees shall be provided to OGB. Application is required to be made within 30 days of the event unless a longer application period is required by federal or state law.

B. ...

C. Effective Date of Change in Classification

1. When adding a dependent due to a HIPAA special enrollment event results in a change in classification, the change in classification will be effective on the date of the event.

2. When the addition of a dependent changes the classification of coverage, the new premium rate will be charged for the entire month if the date of the HIPAA special enrollment event occurs before the fifteenth day of the month. If the date of the HIPAA special enrollment event occurs on or after the fifteenth day of the month, the new premium rate will not be charged until the first day of the following month.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:341 (February 2015), effective March 1, 2015, amended LR 42:

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 Rule will have no net impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

Because the impact of the proposed action is based on the plan selected by each individual enrollee, the impact is indeterminable as to:

1. household income, assets, and financial security;
2. early childhood or educational development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail to Susan T. West, Chief Executive Officer, Office of Group Benefits, P.O. Box 44036, Baton Rouge, LA 70804. All comments must be received no later than 4:30 p.m. on November 9, 2015.

Public Hearing

A public hearing on this proposed Rule may be scheduled for November 24, 2015, at 10 a.m. in the Louisiana Purchase Room, located on the first floor of the Claiborne Building, located at 1201 North Third Street, Baton Rouge LA 70802, if requested by November 9, 2015.

Susan T. West
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Employee Benefits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rule changes may potentially result in an indeterminable decrease in state expenditures.

The Office of Group Benefits (OGB) proposes to change the rules governing the application period allowed for making a change in classification resulting from an addition of a dependent. Current rules provide that the application to add a dependent, due to a federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) Special Enrollment Event, by an actively employed or retired enrollee of an OGB sponsored health plan must be made within 30 days of the event. There may be instances in which federal regulations require that the enrollment period resulting from a HIPAA Special Enrollment Event be greater than the 30-day period currently provided for by the administrative rules governing OGB. For example, a HIPAA Special Enrollment right arises for employees and their dependents who lose coverage under a State Children's Health Insurance Program (CHIP) or Medicaid or who are eligible to receive premium assistance under those programs. The employee or dependent must request enrollment within 60 days of the loss of coverage. There may be instances where failure to comply with such a rule would cause an employer or health insurance issuer to be out of compliance with the federal Patient Protection and Affordable Care Act (ACA) or HIPAA, which could result in penalties being assessed to the employer. The cost savings (by means of penalty avoidance) to state or local government units associated with this proposed administrative rule change is indeterminable, as the OGB is not able to accurately estimate how many members this could impact.

The OGB proposes to amend the impending administrative rule change effective January 1, 2016 that would enact the practice of mid-month adjustment of premiums billed to provide an enrollee a partial refund in premiums for the month in which the enrollee's classification changes due to a dependent's change in status resulting in the loss of coverage for the dependent, and is effective before the 15th of the month. This premium refund practice is not required under existing state or federal law. If the impending administrative rule change is not revised, the refunding process will have to be conducted manually, requiring additional manpower hours. Furthermore, OGB may experience an indeterminable increase in state expenditures, through the partial refunding of premiums to affected enrollees. The number of enrollees who would experience a change in classification due to the deletion of a dependent as a result of a change in the dependent's status is indeterminable as the OGB is not able to accurately estimate how many enrollees will experience such a change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The specific revenue impact to the OGB as a result of the proposed rule changes cannot be accurately determined, as it is dependent upon member circumstances for which the population is not known. It is likely that the population of members who would be affected by the proposed rule change is small and will not result in any substantial impact to the revenues of the agency.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The cost or economic benefits to persons directly affected by the proposed rule changes cannot be accurately determined as the OGB is not in a position to know how many enrollees will experience such a change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no measurable impact on competition and employment anticipated in association with these proposed administrative rule changes. The proposed rule changes are eligibility rule changes and will not impact benefits offered, which are a significant component of the compensation

package of state and certain local public sector employment. Individuals consider compensation packages across alternative private and public sector employment opportunities. For those who could be impacted in the future, these eligibility rule changes will make the compensation package less beneficial. The proposed rule changes may influence the decisions to seek and accept employment in both the public and private sectors.

Susan T. West
Chief Executive Officer
1510#030

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Reverse Auction (LAC 34:V.Chapter 5)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 39:1581, the Office of the Governor, Division of Administration, Office of State Procurement, proposes to amend LAC 34:V.Chapter 5, Reverse Auctions.

Reverse auction, which was authorized by Act 201 of 2011, is an innovative procurement method designed to save taxpayer dollars. Through an electronic, online bidding environment, vendors compete to provide needed materials, services, supplies or equipment for the state. Multiple sellers offer bids which meet the specifications, while competing to offer lower prices than their competitors.

The reverse auction methodology can be utilized where it is determined to be more advantageous than other procurement methods.

The proposed Rule will allow the solicitation to be advertised and posted to LaPac, the state's online bid notification website, simultaneously. This will allow the process to take a maximum of 20 days. Additionally, any vendor who is registered with the state will be allowed to bid without undergoing a pre-qualification process. The Office of State Procurement will continue to judge the responsiveness of a bid and the responsibility of the vendor after the bidding closes.

**Title 34
GOVERNMENT CONTRACTS, PROCUREMENT,
AND PROPERTY CONTROL
Part V. Procurement**

Chapter 5. Reverse Auctions

§501. Definition

[Formerly LAC 34:I.601]

A. For the purpose of this Section, using agency means the Office of State Procurement using an electronic online reverse auction process on its own behalf or on behalf of one or more state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1406 (June 2012), repromulgated LR 40:1354 (July 2014), LR 40:2555 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:

§503. Application

[Formerly LAC 34:I.603]

A. Where the using agency utilizes a reverse auction process, the head of the agency requesting a reverse auction shall have determined that the best interests of the state would be served and that online bidding is more advantageous than other procurement methods.

B. When the using agency uses the reverse auction process on its own behalf or on behalf of multiple state agencies, the director of the Office of State Procurement shall be considered the department head of the using agency.

C. Vendors shall be registered before the opening date and shall have agreed to abide by any terms and conditions and other requirements of a solicitation as a pre-condition to participating in any reverse auction.

D. Vendors and/or products may be prequalified prior to placing bids. If prequalification is a requirement, only bidders who are prequalified will be allowed to participate. When applicable:

1. - 2. ...

3. the prequalification period shall end as prescribed in the solicitation prior to the beginning of the auction;

4. bidders shall be notified as to whether they have been prequalified in writing at least four days prior to the beginning of the auction;

5. prequalified products for a particular solicitation shall be announced on the state's internet-based system for posting vendor opportunities seven days prior to the beginning of the auction;

D.6. - E.1. ...

F. At the opening date and time, the using agency shall begin accepting online bids and continue accepting bids until the bid is officially closed. Bidders shall be allowed to lower the price of their bid below the lowest bid posted on the Internet until the closing date and time.

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1406 (June 2012), repromulgated LR 40:1354 (July 2014), LR 40:2555 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:

§513. Rejected Bids

[Formerly LAC 34:I.613]

A. The awarding authority may reject any bid, in whole or in part, and may select the next lowest responsive and responsible bid, if any of the following occur:

1. the materials, supplies, services, products, or equipment, for which the bid is offered are not in compliance with the requirements, specifications, terms or conditions as stated in the reverse auction;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

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

LR 38:1407 (June 2012), repromulgated LR 40:1355 (July 2014), LR 40:2556 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:

§517. Security

[Formerly LAC 34:I.617]

A. All reverse auctions shall be conducted in accordance with the electronic security requirements of the Office of Technology Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1407 (June 2012), repromulgated LR 40:1355 (July 2014), LR 40:2556 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:

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 Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

It is anticipated that the proposed action will have no significant impact on:

1. household income, assets, and financial security;

2. early childhood or educational development;

3. employment and workforce development;

4. taxes and tax credits; or

5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Pamela Rice, Office of State Procurement, P.O. Box 94095, Baton Rouge, LA 70804-9095. She is responsible for

responding to inquiries regarding this proposed Rule. All comments must be received by November 20, 2015, by close of business.

Jan B. Cassidy
Assistant Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reverse Auction**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are anticipated to result in no cost for either state or local governmental entities.

Reverse Auction, which was authorized by Act 210 of 2011, (La. R.S. 39:1600(D)), is a procurement method designed to reduce expenditures and improve efficiency in the process.

Through an electronic, online bidding environment, vendors compete to provide needed materials, services, supplies or equipment for the State. Multiple sellers offer bids that meet the specifications, while competing to offer lower prices than their competitors. The process is authorized in current rules. The proposed rule changes streamline the process and anticipate that OSP will have the capacity to conduct its own reverse auctions in-house through LaGov without the assistance of a third party vendor. Additionally, the previous controls placed in the rule to help regulate the conduct of a third party vendor are no longer necessary.

In addition, the proposed rule changes also allow for the solicitation to simultaneously be advertised in the newspaper and posted to LaPac. This will shorten the time frame for the process to a maximum of 20 days. Additionally, any vendor who is registered with the state may be allowed to bid without undergoing a pre-qualification process. The Office of State Procurement will continue to judge the responsiveness of a bid and the responsibility of the vendor after the bidding closes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs to directly affected persons or non-governmental groups as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent their proposed rule changes result in the use of reverse auctions, there will likely be increase competition among the state's vendors that may drive down costs for governmental entities. This could impact the profit margin of those vendors participating in the reverse auction process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be increased competition among the state's vendors, which may drive down costs for governmental entities. There is no effect on employment as a result of the proposed rule changes.

Paul A. Holmes
Director
1510#088

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Jockey Apparel Advertising (LAC 46:XLI.742)

The Louisiana State Racing Commission hereby gives notice that it intends to publish and adopt the following Rule by Notice of Intent. Jockey advertising has historically been allowed in Louisiana, but there was a lack of rules regulating such advertising. This Rule provides the specific parameters and allows stewards discretion in disallowing advertising when inappropriate, indecent, in poor taste, or controversial.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§742. Jockey Apparel Advertising

A. A jockey shall not wear advertising or promotional material of any kind on clothing during a race, unless the following criteria are met:

1. a maximum of 32 square inches on each thigh of the pants on the outer side between the hip and knee and 10 square inches on the rear of the pant at the waistline at the base of the spine;

2. a maximum of 24 square inches on boots and leggings on the outside of each nearest the top of the boot;

3. a maximum of six square inches on the front center of the neck area (on a turtleneck or other undergarment);

4. such advertising or promotional material does not compete with, conflict with, or infringe upon any current sponsorship agreement to the racing association race or race meet.

B. The stewards, at their discretion, may disallow any advertising that is not in compliance with this Rule, any other rules of racing, or any advertising they deem to be inappropriate, indecent, in poor taste, or controversial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:151.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 42:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Jockey Apparel Advertising**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule change will not result in any costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change will not affect revenue collections for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule change could impact jockeys racing in the state of Louisiana by allowing them the opportunity to increase their financial earnings by placing advertisements on their racing attire. This rule sets criteria for advertising on a jockey's racing attire and allows stewards the ability to disqualify jockeys for any advertising deemed inappropriate, indecent, in poor taste, or controversial.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III
Executive Director
1510#001

Evan Brasseaux
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Office of the Governor
Licensing Board for Contractors**

Specialty Classifications and Labor Only
(LAC 46:XXIX.1515 and 1517)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and through the authority granted in R.S. 37:2150-2192, which is the Contractor Licensing Law, the Licensing Board for Contractors (LSLBC) hereby gives notice of its intent to update its rules and regulations regarding contracting matters under the jurisdiction of the LSLBC.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XXIX. Contractors**

**Chapter 15. Residential
§1515. Specialty Classifications**

A. Any corporation, partnership, or individual who, for a price, commission, fee, wage or other compensation undertakes or offers to undertake or superintend the following work as it relates to the construction of any building or structure that is not more than three floors in height, to be used by another as a residence, where the value of work exceeds \$7,500, including labor and materials, is required to obtain a specialty classification for that work:

- 1. residential pile driving;
- 2. residential foundations;
- 3. residential framing;
- 4. residential roofing;
- 5. residential masonry/stucco;
- 6. residential swimming pools.

B. Any contractor who seeks to obtain such a specialty classification must, in addition to all other application or licensing requirements, designate a qualifying party who successfully passes the business and law exam and the trade exam for the respective specialty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 42:

§1517. Labor Only

A. In lieu of obtaining a specialty classification required under §1515, a subcontractor who provides labor only and does not supply materials may obtain a subcontract-labor-only specialty classification for work performed under the direct supervision of a licensed residential building contractor. To obtain such a specialty classification, the subcontractor must:

- 1. complete and submit the form prescribed by the board for the subcontract-labor-only specialty classification;
- 2. submit an affidavit (on the form prescribed by the board for the subcontract-labor-only specialty classification) that is executed by a licensed residential building contractor who holds at least one contract with the subcontractor and that attests to the subcontractor's quality of work and character; and
- 3. successfully pass the law, rules and regulations exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 42:

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 no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have a minimal impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no known impact on providers of services for individuals with developmental disabilities.

Public Comments

Interested persons may submit written comments on the proposed regulations to the Licensing Board for Contractors, attention Judy Dupuy, Board Administrator, 2525 Quail Drive, Baton Rouge, LA 70808, through November 20, 2015.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedures Act, a hearing will be held December 4, 2015 at 9:30 a.m. at the Louisiana State Licensing Board for Contractors at 2525 Quail Drive, Baton Rouge, LA 70808.

Michael McDuff
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Specialty Classifications and Labor Only

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is anticipated to require 2 additional staff members in the applications and compliance sections to meet the demands of the additional applications. Personal services expenses associated with this increase are estimated to be \$77,400 in salary and related benefits annually for one new compliance office at the beginning of CY 2016 and \$65,700 in salary and related benefits annually for a new application staff member in CY 2018. The salaries and related benefits for CY 18 will total approximately \$143,000. The remaining expenditures are associated with normal processing costs needed to complete the certification application.

The implementation of the proposed rule will provide additional revenues to the State Licensing Board for Contractors (LSLBC) which will be utilized to offset any additional expenses incurred in complying with the new requirements. The proposed rule change requires contractors to obtain specialty classifications for certain residential projects when those projects exceed \$7,500 in cost. The classifications include the following types of projects: pile driving, foundation work, framing, roofing, masonry/stucco, and swimming pools. This proposed new rule will have no impact on costs (savings) to local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The revenues of the Louisiana State Licensing Board for Contractors will increase from additional licensing fees. The

Board anticipates 300 new applications annually for the first 3 years at a cost of \$460 per application. Each application provides for one of the classifications listed, should the contractor apply for multiple classifications from the list, there will be an additional \$95 fee for each classification up to 5. After 5 classifications there will be no additional charge. The Board also anticipates an annual renewal rate of 90% in subsequent years at a cost of \$125 for the first classification and \$95 for any additional classification up to 5. The increase in annual revenue projections is anticipated to be approximately \$138,000 in FY 16, \$141,000 in FY 17, and \$207,000 in FY 18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will likely be increased costs to contractors as result of the proposed rule change. If the value of work exceeds \$7,500 in the following areas, the contractor will be required to apply for residential specialty classifications: pile driving, foundation work, framing, roofing, masonry/stucco, and swimming pools.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may discourage contractors from performing the type of work listed above should the costs to obtain the classification prove to be too prohibitive.

Judy Dupuy
Board Administrator
1510#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Real Estate Commission

Disbursement of Escrow Deposits (LAC 46:LXVII.2901)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Subpart 1.2901. The purpose of the proposed Rule change is to reduce the timeline for settling deposit disputes in a real estate transaction from 90 to 60 days.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate Subpart 1. Real Estate

Chapter 29. Disbursement of Escrow Deposits §2901. Escrow Disputes

A. When a dispute exists in a real estate transaction regarding the ownership or entitlement to funds held in a sales escrow checking account, the broker holding the funds shall send written notice to all parties and licensees involved in the transaction. Within 60 days of the scheduled closing date or knowledge that a dispute exists, whichever occurs first, the broker shall do one of the following:

1. - 4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44

(January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006), LR 34:2422 (November 2007), LR 37:3007 (October 2011), LR 42:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the October 20, 2015 *Louisiana Register*. The proposed Rule has no known impact on family, formation, stability, or autonomy.

Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

Interested parties may submit written comments on the proposed regulations to Ryan Shaw, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA 70809 or rshaw@lrec.state.la.us, through November 9, 2015, at 4:30 p.m.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedure Act, a hearing will be held on Tuesday, November 24, 2015, at 9 a.m. at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Disbursement of Escrow Deposits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units associated with the proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change 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)

There are no estimated costs associated with the proposed rule change. The proposed rule change reduces the time that a real estate broker can hold deposit funds while settling a deposit dispute from 90 days to 60 days.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Bruce Unangst
Executive Director
1510#040

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Anesthesia/Analgesia Administration
(LAC 46:XXXIII.Chapter 15)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to repeal LAC 46:XXXIII.1503, 1505, 1506, 1507, 1508, 1509, 1511, and 1513. However, notice is hereby further given that the Department of Health and Hospitals, Board of Dentistry intends to promulgate LAC 46:XXXIII.1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, and 1511.

The Louisiana State Board of Dentistry is repealing and then promulgating Chapter 15 to provide for: 1) modifications to the training requirements for a dentist to receive a permit to do various levels of anesthesia, bringing the requirements in line with the American Dental Association guidelines; 2) elimination of the third-party anesthesia permit, instead requiring an office permit for a third party to provide anesthesia in a dental office; 3) allowing intranasal midazolam to be given by holders of a personal permit for moderate sedation with enteral drugs; and 4) specification that six hours of the continuing educational requirements for dentists who hold sedation permits must be specific to sedation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 15. Anesthesia/Analgesia Administration

§1502. Types of Permits

A. The board issues two types of permits for sedation and/or general anesthesia:

1. personal permits;
2. office permits.

B. In order for anyone to perform any type of sedation or general anesthesia beyond minimal sedation in conjunction with dental procedures in a dental office or in any facility in which dentistry is being performed, an office permit must have been issued by the board for that location, subject to the exceptions in R.S. 37:793(H). The office permit must be for the level of sedation or general anesthesia equal to or higher than the level to be performed. No office or personal permit is required for minimal sedation by means other than nitrous oxide inhalation.

C. In order to perform any type of sedation or general anesthesia beyond minimal sedation, or to perform nitrous oxide analgesia or sedation, a dentist must hold a personal permit equal to or higher than the level of sedation or general anesthesia to be performed. Additionally, in order to perform any type of moderate sedation or greater on children under the age of 13, the permit received by the dentist must have a pediatric certification as provided for in §1504.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§1503. Personal Permits for Sedation/Anesthesia

A. The board issues the following types of personal permits for sedation and/or general anesthesia, listed in order from lowest to highest level:

1. nitrous oxide inhalation permit;
2. moderate sedation with enteral drugs;
3. moderate sedation with parenteral drugs;
4. general anesthesia/deep sedation.

B. In order to receive a personal permit, the dentist must show proof of completion of a training program pertaining to the level of permit sought. The training program must have complied with the guidelines and policy statements published by the American Dental Association pertaining to training recommended for sedation and/or general anesthesia.

C. If the training program described in Subsection B of this Section was completed five years or more before the application for the personal permit is made, the board may, in its discretion, through the chairman of its anesthesia committee, issue the requested permit if the licensee has been legally and safely providing sedation/anesthesia at the level of the requested permit in another state since completing the program.

D. In addition to the requirements of Subsection B, in order to receive or renew any personal sedation/general anesthesia permit or a nitrous oxide analgesia/sedation permit, the licensee must provide proof of current certification in cardiopulmonary resuscitation, course "C", basic life support for the health care provider as defined by the American Heart Association, or its equivalent.

E. In addition to the requirements of Subsections B and D, in order to receive or renew a personal moderate enteral sedation permit, a personal moderate parenteral sedation permit, or a personal deep sedation/general anesthesia permit, the licensee must provide proof of current certification in advanced cardiac life support as defined by the American Heart Association or its equivalent. The board will only accept an ACLS course which includes a practical component which is personally attended. If a dentist's practice is restricted to treating only children, the certification in pediatric life support (PALS) described in §1504.A.4 will suffice as a substitute for ACLS.

F. Licensees who have received permits to administer sedation or anesthesia prior to the effective date of this Rule and whose permits are still valid are exempt from the training program requirements in Subsection B upon renewal of their permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§1504. Pediatric Certification for Personal Permits

A. In order to receive a pediatric certification for a personal permit:

1. a dentist shall have completed a pediatric or oral and maxillofacial surgery advanced education program accredited by the Commission on Dental Accreditation that provided training in the level of sedation allowed by the permit requested; or

2. In addition to completing the training requirements set forth in §1503, the dentist shall have completed an additional training course consisting of 8 hours of didactic pediatric sedation training specific to the level of the permit being sought and 10 cases of pediatric sedation involving the highest level of sedation allowed by the permit sought; or

3. the training program meeting the requirements set forth in §1503 was pediatric-specific;

4. in addition to the above requirements, in order to receive or renew a personal permit with a pediatric certification, the licensee must provide proof of current certification in pediatric life support (PALS), or its equivalent. The board will only accept a PALS course which includes a practical component which is personally attended. If a dentist's practice is restricted to treating only children, the PALS certification will suffice as a substitute for the ACLS required in §1503.E. If a dentist's practice is not restricted to treating only children, in order to receive a permit with a pediatric certification, both PALS and ACLS certifications are required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§1505. Personal Permit Renewals

A. In order to renew any sedation/anesthesia permit that the licensee has had for at least two years other than a nitrous oxide inhalation permit, the licensee must have obtained six hours of continuing education on the administration of sedation specific to the highest level of sedation/anesthesia allowed by the permit being renewed or on medical emergencies associated with the administration of sedation/anesthesia specific to the highest level of sedation/anesthesia allowed by the permit being renewed during the two-year period of the permit. If the permit has a pediatric certification, in addition to the above stated requirements, the continuing education must be pediatric-specific. The CPR, ACLS, and PALS courses required in §§1503 and 1504 do not count toward the requirements set forth in this Section. This requirement can be counted toward the usual continuing education licensure requirements and can count toward the continuing education requirement in §1611.J if it is personally attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§1506. Intranasal Midazolam

A. Although the intranasal route of administration of sedative agents is statutorily considered to be a parenteral technique of drug administration, licensees holding a personal permit for moderate sedation with enteral drugs may administer intranasal midazolam to accomplish moderate sedation without holding a personal permit for moderate sedation with parenteral drugs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§1508. Oral Administration of Drugs for Sedation

A. Oral administration of drugs used to induce sedation beyond minimal sedation shall be performed on the dental premises only. Oral administration of drugs for sedation for

children under the age of 13, regardless of the level of sedation targeted, shall be performed on the dental premises only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§1509. Third-party Sedation/Anesthesia

A. Sedation and/or general anesthesia may be performed in a dental office in conjunction with dental work when the dentist utilizes the services of a third-party Louisiana-licensed physician who specializes in anesthesiology, a third-party Louisiana-licensed certified registered nurse anesthetist, or an oral and maxillofacial surgeon who is permitted by the board to administer moderate sedation, deep sedation, and general anesthesia provided that the third-party anesthetist must remain on the premises of the dental facility until any patient given sedation is recovered.

B. In order to utilize a third-party to administer sedation and/or anesthesia as described in Subsection A, a dentist must obtain an office permit for each office location at which a third-party anesthetist will be administering sedation or anesthesia, subject to the exceptions in R.S. 37:793(H). This permit will only be issued after an office inspection by the board to assure that the office meets the minimum requirements for facilities, personnel and equipment for sedation/anesthesia procedures. Additionally, the dentist who is performing the dental work but not performing the sedation/general anesthesia must have current certification in advanced cardiac life support as defined by the American Heart Association or its equivalent. The board will only accept an ACLS course which includes a practical component which is personally attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§1510. Moderate Sedation

A. In order to administer enteral or parenteral moderate sedation, the dentist shall:

1. comply with all requirements of this Chapter;
2. utilize a working pulse oximeter on patients;
3. maintain a proper record keeping mechanism in addition to a controlled substance log; and
4. utilize an accurate scale on pediatric patients (anyone under the age of 13).

B. Drugs for enteral moderate sedation must be administered in a dental office and the patient must be observed by a qualified office staff member with training and credentials to perform the specific tasks concomitant with the procedure being administered. For both enteral and parenteral moderate sedation, continuous monitoring with pulse oximetry must be initiated with early signs of moderate sedation and continued until the patient is alert. A precordial, pretracheal stethoscope must be available to assist intraoperatively in the monitoring of heart and respiratory rates. A sphygmomanometer shall be immediately available and utilized as needed throughout the procedure. Drugs for anxiolysis/minimal sedation in adults may be administered off premises prior to the dental procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§1511. Required Facilities, Personnel and Equipment for Sedation Procedures

A. The following are minimum requirements for facilities and equipment that must be available for use with sedation procedures, other than minimal sedation by means other than nitrous oxide inhalation.

1. The dental operatory where sedation procedures are performed must be large enough to accommodate the patient adequately on a dental chair and to permit an operating team consisting of three individuals to move about the patient.

2. The dental chair must permit the patient to be positioned so that the operating team can maintain the airway, quickly alter the patient position in an emergency, and provide a firm platform for performing cardiopulmonary resuscitation should it become necessary.

3. There must be a lighting system which is adequate to permit evaluation of the patient's skin and mucosal color.

4. There must be suction equipment which permits aspiration of the oral and pharyngeal cavities. A back-up suction device which can operate at the time of a general power failure must be available for moderate and deep sedation procedures and for general anesthesia.

5. There must be an oxygen delivery system with adequate full-face masks and appropriate connectors capable of delivering a positive pressure oxygen supply to the patient.

6. Nitrous oxide equipment should:

a. conform to all requirements as established by the Council on Dental Materials and Devices of the American Dental Association;

b. provide a maximum of 100 percent and never less than 20 percent oxygen concentration at appropriate flow rates;

c. have a functional fail-safe system;

d. utilize a scavenger system in working condition;

e. be free of any obvious leaks, such as those indicated by hissing sounds or poor connections or tears of the delivery tubing or reservoir bag.

7. Ancillary equipment must be available in the operatory where the moderate sedation, deep sedation or general anesthesia procedure is being performed, must be maintained in good operating condition, and must include the following:

a. oral airways;

b. tonsillary or pharyngeal-type suction device adaptable to all office outlets;

c. sphygmomanometer of appropriate size for the patient and stethoscope;

d. adequate equipment for the establishment of an intravenous infusion when parenteral sedation procedures are performed;

e. pulse oximeter;

f. equipment to monitor partial pressure of carbon dioxide when parenteral moderate sedation, deep sedation, or general anesthesia is administered;

g. working electrocardiograph and defibrillator when general anesthesia, deep sedation or moderate is utilized.

8. There must be emergency equipment and drugs available in an emergency kit or crash cart which is

immediately available to the dental operator where the sedation procedure, other than minimal sedation or sedation by nitrous oxide inhalation, is being performed. These kits must include the necessary drugs and equipment to resuscitate a non-breathing unconscious patient and sustain life while the patient is being transported. There should be a list in each kit of the contents and a record of when the contents were checked. The following drugs should be available in the kit:

- a. epinephrine;
- b. vasopressor;
- c. corticosteroid;
- d. bronchodilator;
- e. appropriate drug antagonists;
- f. antihistaminic;
- g. anticholinergic;
- h. coronary artery vasodilator;
- i. anticonvulsant;
- j. oxygen; and
- k. 50 percent dextrose or other antihypoglycemic.

B. Personnel

1. The authorized dentist must ensure that every patient receiving nitrous oxide inhalation analgesia, moderate sedation with parenteral drugs, deep sedation or general anesthesia is constantly attended.

2. Direct supervision by the authorized dentist is required when nitrous oxide inhalation analgesia, moderate sedation with parenteral drugs, deep sedation or general anesthesia is being administered.

3. When nitrous oxide inhalation analgesia is being administered, one dentist or auxiliary who is currently certified in basic life support must be available to assist the dentist or dental hygienist in an emergency.

4. When moderate sedation with parenteral or enteral drugs is being administered one auxiliary who is currently certified in basic life support must be available to assist the dentist in an emergency.

5. When deep sedation or general anesthesia is being administered two auxiliaries who are currently certified in basic life support must be available to assist the dentist in an emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§1513. Exceptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:660 (June 1994), amended LR 39:91 (January 2013), repealed LR 42:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Anesthesia/Analgesia Administration**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in FY 16 for publication of the proposed rules in the State Register. There are no other estimated costs or savings to local governmental units from these proposed rule changes. The Louisiana State Board of Dentistry is repealing and then promulgating Chapter 15 to provide for: 1) modifications to the training requirements for a dentist to receive a permit to do various levels of anesthesia, bringing the requirements in line with the American Dental Association guidelines; 2) elimination of the third party anesthesia permit, instead requiring an office permit for a third party to provide anesthesia in a dental office; 3) allowing intranasal midazolam to be given by holders of a personal permit for moderate sedation with enteral drugs; and 4) specification that 6 hours of the continuing educational requirements for dentists who hold sedation permits must be specific to sedation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated net effect on revenue collections caused by the proposed changes to the rules. Although third party permits are being eliminated, the office permit that takes its place are equal in cost.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The board estimates that the proposed rule changes will have a small impact on the cost of some courses for dentists seeking permits because in some cases, the training requirements will increase. There are no anticipated additional economic costs or benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition and employment as a result of the proposed rule changes.

Arthur F. "Rusty" Hickham
Executive Director
1510#096

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Complaints, Investigation, and Informal Resolution; Formal Adjudication; Informal Disposition of Complaints (LAC 46:XXXIII.Chapters 8, 9 and 11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to repeal LAC 46:XXXIII.1101, 1103, 1105, and 1107. In addition, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to promulgate LAC 46:XXXIII.801, 803, and 805. Further, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.903.

The Louisiana State Board of Dentistry is repealing LAC 46:XXXIII.1101-1107 and promulgating LAC 46:XXXIII.801-805, not only to move the disciplinary proceedings section to an appropriate location within the Code, but for the most part to merely clarify the procedure already in place for disciplinary proceedings, with two exceptions: 1) providing that if an accused professional is invited to the board for an informal conference and is offered a settlement, then the board will turn over any evidence in its possession at the time that it intends to use in a formal hearing so that the accused can consider the settlement proposal in light of the evidence; and 2) allowing for the informal meeting to be electronically recorded, if requested by the accused. Further, the Louisiana State Board of Dentistry is amending LAC 46:XXXIII.903 to clarify the procedure of the appointment of board members to hear and rule on the charges in a formal adjudication.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

Chapter 8. Complaints, Investigation, and Informal Resolution

§801. Complaints and Investigation

A. Complaints to the board about licensees or about individuals practicing without a license must be in writing to

be considered by the board, although the board president has discretion to accept an oral complaint. Complaints can come from any source, including but not limited to the general public, board members and governmental agencies or their contractors.

B. When a complaint is received by the board, the complaint is sent for investigation to a committee of one or more board members. This committee is called the Disciplinary Oversight Committee (hereinafter referred to as the "DOC"). The DOC generally consists of three board members chosen by the executive director of the board, but may consist of as few as one member. The board member from the same district as the licensee being investigated is not eligible to serve on the DOC. The board president is also not eligible to serve on the DOC during his term.

C. If for any reason, through recusal or otherwise, there are not enough board members to form a three-person DOC, the board president may appoint any Louisiana-licensed dentists and/or hygienists to serve on the DOC. The only restriction on the licensees to be appointed is that their home address in the board records not be within the same board electoral district as the home address of the licensee being investigated, if the subject of the investigation is a licensee.

D. The board president has discretion regarding whether to request a response from the subject of the complaint prior to sending the complaint to the DOC. If a response is requested, the subject of the complaint shall be given a reasonable amount of time under the circumstances to respond, and if the subject of the complaint responds, the response, along with the complaint and/or a summary of the allegations, shall be sent to the DOC.

E. The subject of the complaint will be provided with a copy of the complaint if a response is requested of the subject of the complaint except in circumstances where the board president in his discretion feels that the complaint should not be provided or that the identity of the person or entity making the complaint should remain confidential.

F. The board president may choose to have some preliminary investigation done prior to sending the matter to the DOC. Generally, this would include, but is not limited to, obtaining patient records for the DOC to review.

G. The complaint, a response from the licensee if one is requested and received, and any investigative materials gathered by the board, are sent to each member of the DOC. Each member then reviews the materials and conducts any research that he feels is appropriate, then makes a recommendation on how he believes the board should proceed in the matter. The recommendation is provided by the DOC member to the executive director of the board. Once all of the recommendations from the DOC member(s) are received by the executive director, the executive director informs the board president of the recommendations. Taking the recommendations into consideration, the board president chooses a course of action for the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§803. Recommendations by the Disciplinary Oversight Committee (DOC)

A. If the subject of the complaint is a licensee or a former licensee, the recommendations of the Disciplinary

Oversight Committee (“DOC”) can include, but are not limited to, any of the following:

1. send the licensee a letter of concern. This letter of concern is not considered a sanction; it is sent when there is concern that there may have been a violation, but it is not clear that there has been a violation. The letter of concern is not made public, but is kept in the board records for future reference;

2. additional investigation by the board. If additional investigation is determined by the board president to be appropriate, then the board conducts additional investigation, after which the matter, along with the additional investigation materials, is sent back to the DOC for a second recommendation, which is again provided for determination to the board president;

3. informal resolution via correspondence. The licensee may, via correspondence, be offered an informal settlement of the matter;

4. informal dentist-to-dentist conference. The licensee may be offered the opportunity to meet with members of the DOC on an informal basis to discuss the allegations in the complaint;

5. formal adjudication. If formal adjudication is chosen, a new committee is formed to hear the charges against the licensee and formal charges are filed;

6. take no action against the licensee;

7. refer the complainant to the Louisiana Dental Association’s voluntary peer review program and take no action against the licensee;

8. ask a court for injunctive relief. If a former licensee is practicing without a license, this option to ask a court to enjoin the licensee from practicing, along with all of the above options, is available;

9. refer to the authorities for criminal charges.

B. If the complaint is against a non-licensee who has never held a Louisiana license, the recommendations of the DOC can include, but are not limited to any of the following:

1. Take no action against the subject of the complaint.

2. Asking a court for injunctive relief.

3. Refer to the authorities for criminal charges

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

§805. Informal Dentist-to-Dentist Meeting

A. If during the investigative phase of matter the option of an informal dentist-to-dentist meeting is chosen by the board, the licensee shall be invited via a correspondence to the informal meeting to meet on an informal basis with the members of the DOC to discuss issues raised by the complaint.

B. The licensee has the option to make an electronic recording of the informal meeting. If the licensee chooses this option, the board is allowed to make its own recording. If the licensee does not choose this option, no recording is to be made. Only electronic recordings are allowed. Due to the informal nature of the meeting, a court reporter or transcriptionist is not allowed in the meeting.

C. The discussions that take place during the informal meeting shall not be used against the licensee if the matter later goes to a formal hearing, unless the licensee chooses

the option of electronically recording the meeting, in which case the board will make its own copy of the meeting and will use anything said during the meeting at any subsequent formal proceeding.

D. The meeting is voluntary. The licensee is not required to attend.

E. The meeting is strictly dentist-to-dentist; only the licensee and the DOC members are eligible to be present in the room during the informal meeting.

F. Although only dentists are allowed in the room during the meeting, if the licensee wishes, at any time during the meeting, he may pause the meeting so he can consult his attorney, who is allowed to be present at the board during the meeting, or to call an attorney.

G. The DOC does not have the power to sanction the licensee. It only makes recommendations to the board about how to proceed. If the matter goes to a formal hearing, a second committee will be appointed. Only the second committee has the power to sanction. However, the DOC may attempt to negotiate a settlement with the licensee, which, if agreed to, becomes final and valid only after ratification by the full board. If the full board declines to ratify the settlement, the matter goes back to the DOC for further recommendations.

H. If the licensee and the DOC members negotiate a settlement, the licensee may, but will not be required to, sign the settlement on the same day as the informal meeting. The licensee will be allowed, if he chooses, to take a draft of the settlement home to think about it or to consult an attorney rather than to sign on the day of the informal meeting. If the licensee chooses the option of taking the draft home, he shall be granted at least three business days to consider the settlement offer.

I. If a negotiated settlement occurs during the informal meeting and the licensee is offered a consent decree to settle the matter, prior to the licensee signing the consent decree, the board shall turn over whatever evidence in its possession at the time that it would intend to put into evidence at a formal hearing, if there were to be a formal hearing.

J. If the matter is resolved, subject to board approval, through a consent decree negotiated at the informal meeting or as the result of the informal meeting, the consent decree is treated as a final action by the board, as set forth in R.S. 37:780(B), if ratified by the entire board.

K. If the matter is not resolved to the satisfaction of all parties at the informal meeting, or in the time period after the informal meeting that the licensee has been given to consider a proposed settlement, then, after the board member(s) assigned to conduct the informal meeting have reported to the president of the board, the latter may then determine whatever further action, if any, he deems necessary, including but not limited to formal adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:

Chapter 9. Formal Adjudication

§903. Initiation of Proceedings

A. - B. ...

C. When determined by the president that a formal adjudication is warranted, the board president shall appoint a committee of three or more board members to hear and rule

on the charges. This committee is referred to as the Disciplinary Committee, and no board member who served on the Disciplinary Oversight Committee during the investigatory phase of the matter being brought to formal adjudication shall be eligible to serve on the Disciplinary Committee. The board president and any member of the board residing in the same board electoral district as the individual charged shall be ineligible to sit as a member of the Disciplinary Committee. The president shall appoint one member of the Disciplinary Committee to serve as its chairman.

D. If for any reason, through recusal or otherwise, there are not enough board members to form a three-person Disciplinary Committee, the board president may appoint any Louisiana licensed dentists and/or hygienists to serve on the Disciplinary Committee. The only restriction on the licensees to be appointed is that their home address in the board records not be within the same board electoral district as the home address of the licensee being investigated, if the subject of the investigation is a licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1317 (October 1993), amended LR 22:1218 (December 1996), LR 27:1892 (November 2001), LR 39:2752 (October 2013), LR 42:

Chapter 11. Provisions for Informal Disposition of Complaints

§1101. Implementation of the Dental Practice Act to the Extent that it Affects Administrative Procedures of the State Board of Dentistry Pertaining to Informal Disposition of Complaints

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 19:1321 (October 1993), repealed LR 42:

§1103. Initial Review of Complaints

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1321 (October 1993), repealed LR 42:

§1105. Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1321 (October 1993), repealed LR 42:

§1107. Consent Decree

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1321 (October 1993), repealed LR 42:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Complaints, Investigation, and Informal Resolution; Formal Adjudication; Informal Disposition of Complaints

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in FY 16 for publication of the proposed rules in the State Register. There are no other estimated costs or savings to local governmental units from these proposed rule changes. The proposed rule changes of repealing LAC 46:XXXIII.1101-1107 and

promulgating LAC 46:XXXIII.801-.805 were done not only to move the disciplinary proceedings section to an appropriate location within the code but for the most part serve to clarify the procedure already in place for disciplinary proceedings, with two exceptions: 1) providing that if an accused professional is invited to the board for an informal conference and is offered a settlement, then the board will turn over any evidence in its possession at the time that it intends to use in a formal hearing so that the accused can consider the settlement proposal in light of the evidence; and 2) allowing for the informal meeting to be electronically recorded, if requested by the accused. Neither of these changes will have any impact on costs or savings to the board.

Further, the changes to LAC 46:XXXIII.903 was necessitated to clarify the procedure of the appointment of board members to hear and rule on the charges in a formal adjudication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections caused by the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana licensed dentists and hygienists will be positively affected by the proposed rule changes providing additional clarity and fairness to the disciplinary process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition and employment as a result of the proposed rule changes.

Arthur F. "Rusty" Hickham
Executive Director
1510#095

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Dental Hygienists (LAC 46:XXXIII.Chapter 7)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.710 and 712. In addition, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to repeal LAC 46:XXXIII.714.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.710 to reduce the training requirements for a hygienist to receive a permit to administer injections for local anesthesia, decreasing the hours of didactic training from 72 hours to 32 hours, to bring Louisiana more in line with other states. The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.712 and repealing LAC 46:XXXIII.714 to set forth the training requirements for a hygienist to receive a permit to administer nitrous oxide analgesia. The board recently changed the training requirements for dentists to adopt the guidelines as set forth by the American Dental Association. Therefore, the proposed Rule changes will allow the same training requirements for hygienists as dentists in order to receive a nitrous oxide permit.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 7. Dental Hygienists

§710. Administration of Local Anesthesia for Dental Purposes

A. ...

B. Competence to administer local anesthesia must be demonstrated to the board by successful completion of a course of study of at least 32 hours of instruction in a formal program in administration of local anesthesia sponsored by an institutional program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board. A certificate of course completion and a copy of the syllabus must be submitted to the board for approval. The course must include didactic studies and clinical experience in the administration of long buccal, maxillary and mandibular infiltration anesthesia, mental block anesthesia, lingual nerve block, inferior alveolar nerve block anesthesia, medical history and physical evaluation of the patient, and the prevention, diagnosis, and management of medical emergencies which can be encountered in the dental patient. A minimum of 20 satisfactory injections is required.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 25:1476 (August 1999), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 27:1892 (November 2001), LR 28:1779 (August 2002), LR 30:2306 (October 2004), LR 33:847 (May 2007), LR 42:

§712. Nitrous Oxide Inhalation Analgesia

A. - C. ...

1. completion of a board-approved course which conforms to American Dental Association guidelines as described in §1503 of these rules; and

C.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 37:1407 (May 2011), amended LR 42:

§714. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 37:1407 (May 2011), repealed LR 42:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed Rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes to LAC 46:XXXIII.710 will positively affect hygienists because the training requirements for a hygienist to receive a permit to administer injections for local anesthesia will be reduced from 72 hours to 32 hours of didactic training. This will bring Louisiana more in line with other states and will also make it easier for out of state trained hygienists to obtain a permit, either through their training in school or, it is hoped, a restarted continuing education program.

Hygienists who wish to obtain a nitrous oxide permit will be subject to increased training requirements under the proposed rule changes to LAC 46:XXXIII.712 and .714. These requirements are typically met in hygiene school, and the Louisiana Dental Hygiene programs will adjust their programs to comply with the requirements. Hygienists who attended out of state programs, if their program does not meet the ADA guidelines, will presumably have to take a continuing education course, which now might be somewhat more expensive than in the past. In addition, patients will benefit in that the increased training requirements will make the use of nitrous oxide by hygienists safer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change adjusts training requirements for those seeking to enter into the profession of dental hygienist. While training requirements associated with injections for local anesthesia are reduced to more closely align with those of other states, requirements for the administration of nitrous oxide are increased. Hygienists may realize an increase in costs associated with training required to enter the profession. Changes to the local anesthesia requirement will ease transfer of hygienists trained out of state into the Louisiana workforce.

Arthur F. "Rusty" Hickham
Executive Director
1510#094

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Dental Hygienists**

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Dental Practice Address and Mailing Address and
Portable and Mobile Dentistry Permits
(LAC 46:XXXIII.304 and 313)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in FY 16 for publication of the proposed rules in the State Register. There are no other estimated costs or savings to local governmental units from these proposed rule changes. The proposed rule changes to LAC 46:XXXIII.710 reduces the training requirements for a hygienist to receive a permit to administer injections for local anesthesia, decreasing the hours of didactic training from 72 hours to 32 hours, to bring Louisiana more in line with other states.

Additionally, the proposed rule changes to LAC 46:XXXIII.712 and .714 sets forth the training requirements for a hygienist to receive a permit to administer nitrous oxide analgesia. The Louisiana State Board of Dentistry recently changed the training requirements for dentists to adopt the guidelines as set forth by the American Dental Association. Therefore, the proposed rule changes will allow the same training requirements for hygienists as dentists in order to receive a nitrous oxide permit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections caused by the proposed changes to the rules.

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.304 and 313.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.304 to clarify that a dentist will only need to send the Louisiana State Board of Dentistry a change of official mailing address or practice location form if he or she is going to be at a location for 30 days or more. In addition, the Louisiana State Board of Dentistry is amending LAC 46:XXXIII.313 to correct an aberration in the rules. Mobile and portable dentistry permits are required for the owner of any mobile or portable dentistry unit, but the permits are only issued to Louisiana licensed dentists. Federally qualified health centers (FQHCs) are allowed to provide

mobile and portable dentistry, but need not be owned by a dentist. Thus, although FQHCs are allowed to do mobile or portable dentistry, they cannot get permits because they are typically not owned by dentists. The change allows the permit to be issued to a Louisiana licensed dentist who practices in a FQHCs mobile or portable clinic, even if he or she is not the owner. The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.313.B.4 to exempt dentists from all of the requirements of the mobile and portable permits if their sole mobile or portable practice consists of only making dentures or mouth guards.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 3. Dentists

§304. Address of Dental Practice and Mailing Address

A. Each dentist shall inform the Louisiana State Board of Dentistry of his official mailing address and all office addresses at which the dentist practices dentistry within 30 days of changing his official mailing address or commencing practice at each location if the dentist practices for more than 30 days in a 1-year period at the new location.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 15:965 (November 1989), amended LR 18:739 (July 1992), LR 23:1525 (November 1997), LR 31:927 (April 2005), LR 42:

§313. Portable and Mobile Dentistry

A. Definitions

* * *

Mobile Operator Permit—an authorization given to a Louisiana licensed dentist for the physical use of a mobile dental clinic or mobile dental unit in which to provide dental services. One mobile operator permit is required for each mobile clinic regardless of the number of dentists who practice in the clinic.

* * *

Portable Operator—a dentist licensed in Louisiana providing dental services at a location other than a mobile dental clinic or mobile dental unit and other than a fixed dental office either directly and/or through Louisiana licensed dentist associates. One portable operator permit is required for each set of portable dental equipment regardless of the number of dentists who work in the portable dental clinic.

* * *

B. - B.3. ...

4. Dentist licensed to practice in Louisiana who limit their mobile or portable practice to taking impressions and delivering mouthguards and removable dentures.

C. Application and Criteria for Permit

1. To operate mobile or portable operations a dentist must be licensed in Louisiana, in good standing with the dental board, and must have a *mobile operator permit*, a *portable operator permit*, or both.

C.2. - M.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), and Act 429 of the Regular Legislative Session of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 36:2035 (September 2010), amended LR 37:1406 (May 2011), LR 42:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed Rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dental Practice Address and Mailing Address and Portable and Mobile Dentistry Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in FY 16 to the Board of Dentistry for publication of the proposed rules in the State Register. There are no other estimated costs or savings to state or local governmental units from these proposed rule changes. The proposed rule change to LAC 46:XXXIII.304 simply makes it clear that a dentist will only need to send the Louisiana State Board of Dentistry a change of official mailing address or practice location form if he or she is going to be at a location for 30 days or more.

Additionally, the proposed rule changes to LAC 46:XXXIII.313 allow for two things: 1) Mobile and Portable Dentistry Permits are required for the owner of any mobile or portable dentistry unit, but the permits are only issued to Louisiana licensed dentists. Federally Qualified Health Centers (FQHCs) are allowed to provide mobile and portable dentistry, but need not be owned by a dentist. Thus, although FQHCs are allowed to do mobile or portable dentistry, they cannot get permits because they are typically not owned by dentists. The change allows the permit to be issued to a Louisiana licensed dentist who practices in a FQHCs mobile or portable clinic, even if he or she is not the owner; and 2) the changes exempt dentists from all of the requirements of the mobile and portable permits if their sole mobile or portable practice consists of only making dentures or mouth guards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

After the proposed rules changes become effective to LAC 46:XXXIII.313, the Louisiana State Board of Dentistry estimates receiving applications for approximately 3 new Federally Qualified Health Centers (FQHCs) mobile or portable permits per year. Each new FQHC mobile or portable permit costs \$250.00 and thereafter each dentist will be charged a renewal fee of \$400.00 for the mobile or portable permit upon renewal of his or her Louisiana dental license. The Board estimates annual revenues of approximately \$750 upon adoption of the proposed rule change with revenues growing to approximately \$1,800 by FY 18 for both new FQHC mobile or portable permits and the renewal of FQHC mobile or portable permits.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes to LAC 46:XXXIII.313 will affect any Louisiana licensed dentist who works for a Federally Qualified Health Center (FQHC) mobile or portable clinic. The dentist will be required to pay a fee of \$250 for a new mobile or portable permit and a renewal fee of \$400. The renewal fee will be charged at the time the dentist is required to renew his or her license, which occurs biennially.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will allow FQHCs to provide mobile and portable dentistry services under the care of a licensed dentist. Eligible clients may realize greater access to services by utilizing mobile and portable dentistry services provided through FQHCs. The proposed rule change will also allow certain dentists to operate mobile or portable practices consisting of making dentures or mouth guards without paying for specific licensure to do so.

Arthur F. "Rusty" Hickham
Executive Director
1510#093

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Licensure as an Advanced Practice Registered Nurse and
Authorized Practice (LAC 46:XLVII.4507 and 4513)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) is amending two

Sections in Chapter 45 of its rules: §§4507 and 4513. The proposed Rule changes will allow the Louisiana State Board of Nursing the ability to provide an opportunity for APRNs that have acquired licensure by alternative methods to go before the board and explain and/or justify why the Louisiana State Board of Nursing should extend licensure opportunities to him/her. It will also allow the Louisiana State Board of Nursing the ability to clarify exemption of CRNAs from the requirement to have a collaborative practice agreement to provide anesthesia care and ancillary services to patients in a hospital or other licensed surgical facility.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered
Nurses**

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

**§4507. Licensure as Advanced Practice Registered
Nurse**

A. Initial Licensure

1. The applicant shall meet the following requirements:

a. - b.ii. ...

c. any deviation from Subparagraph 1.b shall be submitted to the board for review and approval;

d. submission of a completed application on a form furnished by the board;

e. submission of evidence of current certification in the respective advanced practice nursing role and population focus by a nationally-recognized certifying body approved by the board;

f. submission of a non-refundable fee as specified in LAC 46:XLVII.3341;

g. submission to criminal history record information as specified in LAC 46:XLVII.3330;

h. after initial licensure, applicants seeking licensure for advanced practice in an additional specialty and/or functional role shall meet the requirements stated in LAC 46:XLVII.4507.A.1.a-d;

i. if there is a gap equal to or greater than two years between the completion of the graduate or post graduate program as delineated in LAC 46:XLVII.4507.A.1.b and the application for initial licensure, the applicant must provide additional verification of competency as requested by the board and may be required to appear before the board (or its committee) for further consideration before licensure or a temporary permit may be granted.

A.2. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:724 (May 2001), LR 29:580 (April 2003), LR 31:1340 (June 2005), LR 31:2015 (August 2005), LR 32:247 (February 2006), LR 37:3027 (October 2011), LR 40:61 (January 2014), LR 42:

§4513. Authorized Practice

A. - D.10. ...

11. Limitation

a. - b. ...

c. Exclusion. Nothing herein shall require a CRNA to have a collaborative practice agreement to provide anesthesia care and ancillary services to patients in a hospital or other licensed surgical facility.

i. Anesthesia care shall be within the scope of practice of CRNAs as delineated by the American Association of Nurse Anesthetists and includes:

(a). the administration, selection, and prescribing of anesthesia related drugs or medicine during the perioperative period necessary for anesthesia care; and

(b). prescribing diagnostic studies, legend and controlled drugs, therapeutic regimens, and medical devices and appliances necessary for anesthesia care.

ii. Ancillary services provided by CRNAs:

(a). shall include services within the scope of practice of CRNAs as delineated by the American Association of Nurse Anesthetists in which the individual CRNA possesses the knowledge, skills, and abilities to competently perform;

(b). shall be pursuant to a consult for the service by a licensed prescriber if the services are not directly related to anesthesia care; and

(c). may include prescribing diagnostic studies, legend and controlled drugs, therapeutic regimens, and medical devices and appliances for assessment, administration or application while the patient is in the hospital or other licensed surgical facility in the state of Louisiana.

iii. Nothing herein shall provide for services by a CRNA which are otherwise prohibited by law.

11.d. - 14.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K) and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR, amended by the Department of Health and Hospitals, Board of Nursing, 27:727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR 31:2023 (August 2005), LR 33:1870 (September 2007), LR 40:63 (January 2014), LR 40:2249 (November 2014), LR 42:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before November 10, 2015.

Karen C. Lyon
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure as an Advanced Practice Registered Nurse and Authorized Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than publication costs associated with the proposed rule changes, which are estimated to be \$656 in FY 16, it is not anticipated that state or local governmental units will incur any other costs or savings as a result of promulgation of the proposed rule. The proposed changes provide definitions and clarifications of the current exclusion for Certified Registered Nurse Anesthetists (CRNA) from being required to have a collaborative practice agreement in order to provide anesthesia care and ancillary services to patients in a hospital or other licensed surgical facility. The proposed changes will also require an Advanced Practice Registered Nurse (APRN) to define any deviation from stated licensure requirements during the initial licensure phase. These deviations shall be submitted to the board for review and approval. This rule does not require an increase or decrease in workload responsibilities to the Board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to result in costs and/or economic benefits to any person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may allow certain APRNs to acquire licensure via an alternative method that is generally not

recognized by national, state and/or local boards. Any such licensure would require review and approval by the board.

Karen C. Lyon
Executive Director
1510#062

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Practical Nurse Examiners

Types of Licensure (LAC 46:XLVII.1703)

The Board of Practical Nurse Examiners proposes to amend LAC 46:XLVII.1703, in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

The purpose of the proposed Rule change to Section 1703 is to ensure that the practical nurse graduate possess the knowledge, skill and ability to engage successfully in the clinical setting.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 1. Practical Nurses

Chapter 17. Licensure

§1703. Types of Licensure

A. - A.1. ...

2. be permitted to write the examination up to four times within a period of two years from the date of being made eligible;

3. re-enter and successfully complete the entire practical nursing program without advance credits if the fourth writing is unsuccessful before being allowed to take the practical nursing examination again;

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:971 and 37:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 10:341 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), LR 42:

Family Impact Statement

The proposed amendments to LAC 46:XLVII.Subpart 1 should not have any impact on family as defined by R.S. 49:972. There should not be any effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; family earnings and family budget; the behavior and personal responsibility of children; and/or the ability of the family or local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, it is anticipated that the proposed amendments will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

The proposed amendments should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known foreseeable effect on:

1. Is there an effect on the staffing level requirements or qualifications required to provide the same level of service? There will be no effect on the staffing level requirements or qualifications required to provide the same level of service.

2. Is there a total direct and indirect effect on the cost to the providers to provide the same level of service? There is not a direct or indirect effect on the cost to the providers to provide the same level of service.

3. What is the overall effect on the ability of the provider to provide the same level of service? There is no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments until 4 p.m., November 9, 2015, to M. Lynn Ansardi, RN, Board of Practical Nurse Examiners, 131 Airline Drive, Suite 301 Metairie, LA 70001.

M. Lynn Ansardi, RN
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Types of Licensure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only anticipated costs to the board associated with the implementation of the proposed Rule change will be to publish the Rule in the Louisiana Register at approximately \$164.00 and to mail notices to affected applicants informing them of the Rule change at approximately \$1,000.00 in FY 16. No other state or local governmental units will be affected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change may slightly decrease revenue collected by this state agency but will not have an effect on revenues collected by other state agencies or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only person(s) affected by this Rule change would be applicants for licensure who do not pass the practical nursing examination in the time allotted. They will have to re-enroll and repeat the entire practical nursing program before applying again to take the practical nursing examination.

There could be an increase in revenue collected by the institutions that are accredited to teach the practical nursing programs since the applicants who do not pass the examination in the time allotted would have to re-enroll and repeat the entire practical nursing program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

M. Lynn Ansardi, RN
Executive Director
1510#002

Evan Brasseaux
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office of Behavioral Health**

Adult Mental Health Services
Covered Services and Recipient Qualifications
(LAC 50:XXXIII.Chapters 61-67)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 61-67 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amended the provisions governing adult behavioral health services in order to ensure the provider certification, assessment, and reevaluation criteria are in alignment with the approved Medicaid state plan (*Louisiana Register*, Number 41, Volume 2).

The department promulgated an Emergency Rule which amended the provisions governing adult mental health services in order to: 1) provide Medicaid coverage and reimbursement for licensed mental health professional services and mental health rehabilitative services to adult members enrolled in Bayou Health and terminate the behavioral health services rendered under the 1915(i) state plan authority; 2) establish the recipient qualifications criteria; and 3) revise the assessment and plan of care requirements (*Louisiana Register*, Volume 41, Number 10). This proposed Rule is being promulgated to continue the provisions of the December 1, 2015 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 7. Adult Mental Health Services

Chapter 61. General Provisions

§6101. Introduction

A. The Medicaid Program provides coverage under the Medicaid state plan for mental health services rendered to adults with mental health disorders. These services shall be

administered under the authority of the Department of Health and Hospitals, in collaboration with the managed care organizations (MCOs), which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The mental health services rendered to adults shall be necessary to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level in the community.

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 38:358 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:

§6103. Recipient Qualifications

A. Individuals, 21 years of age and older, who meet Medicaid eligibility and clinical criteria established in §6103.B, shall qualify to receive adult mental health services.

B. Qualifying individuals shall be eligible to receive the following adult mental health services.

1. Licensed mental health professional services are available to adults enrolled in Bayou Health, provided the services are determined to be medically necessary in accordance with LAC 50:I.1101.

a. - b. Repealed.

2. Mental health rehabilitation services are available to adults enrolled in Bayou Health, provided the services are determined to be medically necessary in accordance with LAC 50:I.1101, and the enrollee meets the following conditions:

a. currently presents with mental health symptoms that are consistent with a diagnosable mental disorder specified within the *Diagnostic and Statistical Manual of Mental Disorders (DSM-V)* or the *International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10)*;

i. - iii. Repealed.

b. has at least a score of two on the level of care utilization system (LOCUS); and

c. has a condition for which services are therapeutically appropriate.

3. - 4. Repealed.

C. An adult who has previously met the criteria stated in §6103.B.2.a-c, but who now meets a composite LOCUS score of one and needs subsequent medically necessary services for stabilization and maintenance, shall be eligible for adult mental health services.

D. An adult with a primary diagnosis of a substance use disorder without an additional co-occurring qualifying mental health diagnosis shall not meet the criteria for mental health rehabilitation 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, Bureau of Health Services Financing, LR 38:358 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:

Chapter 63. Services

§6301. General Provisions

A. All mental health services must be medically necessary, in accordance with the provisions of LAC 50:I.1101. The medical necessity for services shall be determined by a licensed mental health practitioner or physician who is acting within the scope of his/her professional license and applicable state law.

B. ...

C. There shall be recipient involvement throughout the planning and delivery of services.

1. Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall be appropriate for:

a. age;

b. development; and

c. education.

4. Repealed.

D. Anyone providing mental health services must operate within their scope of practice license.

E. ...

F. Services may be provided at a facility, in the community, or in the individual's place of residence as outlined in the plan of care. Services may be furnished in a nursing facility only in accordance with policies and procedures issued 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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:

§6303. Assessments

A. For mental health rehabilitation services, each enrollee shall be assessed and have a plan of care (POC) developed.

B. Assessments shall be performed by a licensed mental health practitioner (LMHP).

C. Assessments must be performed at least every 365 days or as needed any time there is a significant change to the enrollee's circumstances.

D. 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, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:

§6305. Plan of Care

A. Each enrollee who receives adult mental health rehabilitation services shall have a POC developed based upon the assessment.

B. The individualized POC shall be developed according to the criteria established by the department and in accordance with the provisions of this Rule, the provider

manual and other notices or directives issued by the department.

1. The POC is reviewed at least every 365 days and as needed when there is significant change in the individual's circumstances.

C. The plan of care shall be developed by a case manager who acts as an advocate for the individual and is a source of information for the individual and the team.

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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:

§6307. Covered Services

A. The following mental health services shall be reimbursed under the Medicaid Program:

1. therapeutic services, including diagnosis and treatment delivered by LMHPs;

2. - 3. ...

B. Service Exclusions. The following shall be excluded from Medicaid reimbursement:

1. components that are not provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual;

2. services provided at a work site which are job tasks oriented and not directly related to the treatment of the recipient's needs; and

3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services.

C. - C.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, Bureau of Health Services Financing, LR 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:

Chapter 65. Provider Participation

§6501. Provider Responsibilities

A. Each provider of adult mental health services shall enter into a contract with one or more of the managed care organizations in order to receive reimbursement for Medicaid covered services.

B. All services shall be delivered in accordance with federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documents to substantiate that all requirements are met.

C. Providers of adult mental health services shall ensure that all services are authorized and any services that exceed established limitations beyond the initial authorization are approved for re-authorization prior to service delivery.

D. Anyone providing adult mental health services must be certified by the department, or its designee, in addition to operating within their scope of practice license.

E. Providers shall maintain case records that include, at a minimum:

1. a copy of the plan of care and treatment plan;

2. - 5. ...

6. the goals of the plan of care and/or treatment plan.

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 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:

Chapter 67. Reimbursement

§6701. Reimbursement Methodology

A. Effective for dates of service on or after December 1, 2015, the department, or its fiscal intermediary, shall make monthly capitation payments to the MCOs.

B. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

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 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 42:

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 increasing access to Medicaid covered adult mental health services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families for mental health services as a result of increased access to Medicaid covered adult mental health services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to

MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 25, 2015 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Adult Mental Health Services Covered Services and Recipient Qualifications

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 state general fund programmatic costs of \$830,993 for FY 15-16, \$1,469,932 for FY 16-17, and \$1,514,030 for FY 17-18. It is anticipated that \$1,404 (\$702 SGF and \$702 FED) will be expended in FY 15-16 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 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the last nine months of FY 16 is the federal rate for disaster-recovery FMAP adjustment states.

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 \$1,365,206 for FY 15-16, \$2,405,449 for FY 16-17, and \$2,477,612 for FY 17-18. It is anticipated that \$702 will be expended in FY 15-16 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 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 16 is the federal rate for disaster-recovery FMAP adjustment states.

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, 2015 emergency rule, amends the provisions governing adult mental health services to: 1) provide Medicaid coverage and reimbursement for licensed mental health professional services and mental health rehabilitation services to adult members enrolled in Bayou Health and terminate the behavioral health services rendered under the 1915(i) State Plan authority; 2) establish recipient qualifications criteria; and 3) revise the assessment and plan of care requirements. It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid Program for adult mental health services by approximately \$2,194,795 for FY 15-16, \$3,875,381 for FY 16-17, and \$3,991,642 for FY 17-18.

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 and employment.

J. Ruth Kennedy
Medicaid Director
1510#078

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
(LAC 50:V.2903 and Chapter 31)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:V.2903 and adopt LAC 50:V.Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding Medicaid state plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). This proposed Rule is being promulgated to continue the provisions of the May 24, 2014 and September 20, 2014 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 29. Public-Private Partnerships

§2903. Reimbursement Methodology

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, Bureau of Health Services Financing, LR 40:2259 (November 2014), repealed LR 42:

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Lake Charles Metropolitan Statistical Area (MSA)

1. Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Lake Charles MSA;

b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 20 percent. Qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and

c. maintaining at least 15 unweighted intern and resident full-time equivalent positions, as reported on the Medicare cost report worksheet E-4, line 6.

B. Hospitals Located in the Lake Charles MSA

1. Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the Lake Charles MSA;

b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 10 percent. To determine qualification in state fiscal year 2014, the first six month dates of service time period (July 1, 2013 through December 31, 2013) shall be used. In subsequent state fiscal years, qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and

c. maintaining at least 20 unweighted intern and resident full-time equivalent positions, as reported on the Medicare cost report worksheet E-4, line 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, Bureau of Health Services Financing, LR 42:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs subject to the Appropriations Act. DSH payments to qualifying hospitals shall not exceed the disproportionate share limits as defined in section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable.

B. Payment Calculation

1. For the initial year's payment calculation, each qualifying hospital shall submit interim actual cost data calculated utilizing Medicaid allowable cost report principles, along with actual Medicaid and uninsured patient charge data. Annual Medicaid costs shortfalls and unreimbursed uninsured patient costs are determined based on review and analysis of these submissions.

2. For subsequent year's payment calculations, the most recent Medicaid filed cost report along with actual Medicaid and uninsured patient charge data annualized from the most recent calendar year completed quarter is utilized to calculate hospital specific uncompensated care costs.

C. The department shall review cost data, charge data, lengths of stay and Medicaid claims data per the Medicaid management and information system (MMIS) for reasonableness before payments are made.

D. The first payment of each fiscal year will be made by October 15 and will be 80 percent of the annual calculated uncompensated care costs. The remainder of the payment will be made by June 30 of each year.

1. Reconciliation of these payments to actual hospital specific uncompensated care costs will be made when the cost report(s) covering the actual dates of service from the state fiscal year are filed and reviewed.

2. Additional payments or recoupments, as needed, shall be made after the finalization of the CMS mandated DSH audit for the state fiscal year.

E. No payment under this Section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity.

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 42:

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 no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this Emergency Rule has been considered. It is anticipated that this Emergency Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 25, 2015 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Disproportionate Share Hospital Payments, Louisiana Low-Income Academic Hospitals

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 state general fund programmatic costs of \$18,495,543 for FY 15-16, \$19,285,817 for FY 16-17, and \$20,057,250 for FY 17-18. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 15-16 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 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the last nine months of FY 16 is the federal rate for disaster-recovery FMAP adjustment states.

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 \$30,395,419 for FY 15-16, \$31,559,997 for FY 16-17, and \$32,822,397 for FY 17-18. It is anticipated that \$378 will be expended in FY 15-16 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 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 16 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the May 24, 2014 and September 20, 2014 Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments in order to establish payments to Louisiana Low-Income Academic Hospitals. It is anticipated that the implementation of this proposed rule will increase programmatic expenditures in the Medicaid Program for DSH payments by approximately \$48,890,206 for FY 15-16, \$50,845,814 for FY 16-17, and \$52,879,647 for FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1510#079

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Facility Need Review
Outpatient Abortion Facilities
(LAC 48:I.Chapter 125)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.12501 and §12503 and to repeal §12524 in the Medical Assistance Program as authorized by R.S. 36:254. 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 Rule governing the Facility Need Review Program (FNR) in order to adopt provisions for the inclusion of outpatient abortion facilities in the FNR process (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Facility Need Review Program to remove outpatient abortion facilities from the FNR process (*Louisiana Register*, Volume 41, Number 7). The department subsequently amended the provisions of the July 1, 2015 Emergency Rule in order to correct the formatting of §12503 as a result of the promulgation of a January 20, 2015 Rule governing the FNR process (*Louisiana Register*, Volume 41, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2015 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. ...

Outpatient Abortion Facility—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:135 (January 2015), LR 42:

§12503. General Information

A. - B. ...

C. The department will also conduct a FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. ...

4. hospice providers or inpatient hospice facilities; and

5. pediatric day health care facilities.

6. Repealed.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs/ID, ADHC providers, hospice providers, and pediatric day health care centers that meet one of the following conditions:

1. - 3. ...

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012; or

5. pediatric day health care providers that were licensed by the department before March 1, 2014, or an entity that meets all of the following requirements:

a. has a building site or plan review approval for a PDHC facility from the Office of State Fire Marshal by March 1, 2014;

b. has begun construction on the PDHC facility by April 30, 2014, as verified by a notarized affidavit from a licensed architect submitted to the department, or the entity had a fully executed and recorded lease for a facility for the specific use as a PDHC facility by April 30, 2014, as verified by a copy of a lease agreement submitted to the department;

c. submits a letter of intent to the department's Health Standards Section by April 30, 2014, informing the department of its intent to operate a PDHC facility; and

d. becomes licensed as a PDHC by the department no later than December 31, 2014.

6. - 6.d. Repealed.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:136 (January 2015), LR 42:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12524. Outpatient Abortion Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1961 (August 2012), repealed LR 42:

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821, or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 25, 2015 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.

Kathy H. Kliebert
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Facility Need Review
Outpatient Abortion Facilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that \$648 (SGF) will be expended in FY 15-16 for the state’s administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have a minimal reduction in revenue collections due to the loss of facility need review fees paid to the Department by outpatient abortion facilities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the July 1, 2015 and October 20, 2015 emergency rules, amends the provisions governing the Facility Need Review (FNR) program in order to remove outpatient abortion facilities from the FNR process. It is anticipated that the implementation of this proposed rule will have no economic cost, but may be beneficial to outpatient abortion facilities in FY 15-16, FY 16-17, and FY 17-18 by avoiding the cost of the \$200 fee associated with the FNR process since these facilities will no longer have to undergo the process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1510#080

Evan Brasseaux
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
Residential Options Waiver
Reserved Capacity Group
(LAC 50:XXI.16107, 16343, 16701 and 16901)

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.16107, §16343, §16701 and §16901 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the Residential Options Waiver (ROW) in order to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity, reduce reimbursement rates, adopt criteria for crisis diversion, revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the developmental disabilities request for services registry (*Louisiana Register*, Volume 41, Number 10). The department now proposes to amend the provisions governing the ROW to create a reserved capacity group to allow individuals with developmental disabilities who receive services in the Community Choices Waiver or the Adult Day Health Care Waiver programs to transition into the ROW.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers**

Subpart 13. Residential Options Waiver

**Chapter 161. General Provisions
§16107. Programmatic Allocation of Waiver
Opportunities**

A. - C. ...

D. Individuals with intellectual and developmental disabilities (I/DD) who have a statement of approval (SOA) through the Office for Citizens with Developmental Disabilities (OCDD), and who currently receive services via the Office of Aging and Adult Services (OAAS) Community Choices Waiver (CCW) or Adult Day Health Care (ADHC) Waiver programs shall be placed in a reserved capacity group to allow for transition into the ROW.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), LR 42:

Chapter 163. Covered Services

§16343. Adult Day Health Care Services

A. Adult day health care (ADHC) services shall be furnished as specified in the POC and at an ADHC facility in a non-institutional, community-based setting encompassing health, medical, and social services needed to ensure the optimal functioning of the participant.

B. ADHC services include:

1. transportation between the participant's place of residence and the ADHC, in accordance with licensing standards;

2. assistance with activities of daily living;
3. health and nutrition counseling;
4. an individualized exercise program;
5. an individualized goal-directed recreation program;
6. health education classes;
7. individualized health/nursing services; and
8. meals.

a. Meals shall not constitute a full nutritional regimen (three meals per day), but shall include a minimum of two snacks and a hot, nutritious lunch.

C. The number of participants included in the service per day shall be determined by the facility's licensed capacity and attendance. The average capacity per facility is 49 participants.

D. Nurses shall be involved in the participant's service delivery as specified in the POC or as needed. The ADHC shall develop an individualized service plan based on the participant's POC. If the individualized service plan requires certain health and nursing services, the nurse on staff shall ensure that the services are delivered while the participant is at the ADHC facility.

E. ADHC services shall be provided no more than 10 hours per day and no more than 50 hours per week.

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 42:

Chapter 167. Provider Participation

§16701. General Provisions

A. - F. ...

G. Providers of ADHC services must:

1. be licensed as ADHC providers by the state of Louisiana in accordance with R.S. 40:2120.41-2120.47;

2. comply with all of the department's rules and regulations; and

3. be enrolled as an ADHC provider with the Medicaid program.

a. ADHC facility staff shall meet the requirements of department rules and regulations, as well as state licensing provisions.

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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2168 (October 2015), LR 42:

Chapter 169. Reimbursement

§16901. Reimbursement Methodology

A. - A.5.f. ...

6. support coordination;

7. - 7.a. ...

b. micro-enterprise; and

8. adult day health care.

B. - L.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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2168 (October 2015), LR 42:

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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by improving access to, and the quality of, Residential Options Waiver services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing health care cost to families through improved access to waiver services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The

deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 25, 2015 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Residential Options Waiver Reserved Capacity Group

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 state general fund net programmatic costs of \$63,092 for FY 15-16, \$676,871 for FY 16-17 and \$815,384 for FY 17-18. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 15-16 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 62.17 percent in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have a net increase in federal revenue collections by approximately \$103,443 for FY 15-16, \$1,107,657 for FY 16-17 and \$1,334,324 for FY 17-18. It is anticipated that \$378 will be expended in FY 15-16 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 62.17 percent in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Residential Options Waiver (ROW) in order to create a reserved capacity group to allow individuals with developmental disabilities who receive services in the Community Choices Waiver or the Adult Day Health Care Waiver programs to transition into the ROW. It is anticipated that implementation of this proposed rule will have a net increase in programmatic expenditures in the Medicaid program for ROW services by approximately \$165,779 for FY 15-16, \$1,784,528 for FY 16-17 and \$2,149,708 for FY 17-18, but no correlating savings in the Adult Day Health Care and Community Choices Waivers as the vacated slots are anticipated to be filled at a later time.

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 and employment.

J. Ruth Kennedy
Medicaid Director
1510#081

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities
Non-State Governmental Organizations
Supplemental Payments
(LAC 50:II.20029)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:II.20029 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement to non-state, government-owned or operated nursing facilities for long-term care services provided to Medicaid recipients.

The department now proposes to amend the provisions governing the reimbursement methodology for nursing facilities in order to establish supplemental Medicaid payments for qualifying nursing facilities, owned or operated by a non-state governmental organization (NSGO), that have entered into an agreement with the department to participate. This action is being taken to promote the health and welfare of Medicaid recipients, ensure sufficient provider participation in the Nursing Facilities Program, and maintain adequate recipient access to nursing facility services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20029. Supplemental Payments

A. Non-State Governmental Organization Nursing Facilities

1. Effective for dates of service on or after January 20, 2016, any nursing facility that is owned or operated by a non-state governmental organization (NSGO), and that has entered into an agreement with the department to participate, shall qualify for a Medicaid supplemental payment adjustment, in addition to the uniform Medicaid rates paid to nursing facilities. The only qualifying nursing facilities effective for January 20, 2016 are:

- a. Gueydan Memorial Guest Home;
- b. Lane Memorial Hospital Geriatric Long-Term Care (LTC);
- c. LaSalle Nursing Home;
- d. Natchitoches Parish Hospital LTC Unit; and
- e. St. Helena Parish Nursing Home.

2. The supplemental Medicaid payment to a non-state, government-owned or operated nursing facility shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272.

3. Payment Calculations. The Medicaid supplemental payment adjustment shall be calculated as follows. For each state fiscal year (SFY), the Medicaid supplemental payment shall be calculated as the difference between:

a. the amount that the department reasonably estimates would have been paid to nursing facilities that are owned or operated by a NSGO using the Medicare resource utilization groups (RUGs) prospective payment system. For each Medicaid resident that is in a nursing facility on the last day of a calendar quarter, the minimum data set (MDS) assessment that is in effect on that date is classified using the Medicare RUGs system. The Medicare rate applicable to the Medicare RUG, adjusted by the Medicare geographic wage index, equals the Medicaid resident's estimated Medicare rate. A simple average Medicare rate is determined for each nursing facility by summing the estimated Medicare rate for each Medicaid resident in the facility and dividing by total Medicaid residents in the facility; and

b. the Medicaid per diem rate for nursing facilities that are owned or operated by a NSGO. The Medicaid rate shall be adjusted to include laboratory, radiology, and pharmacy services to account for program differences in services between Medicaid and Medicare. The statewide average of laboratory, radiology, and pharmacy services is calculated using Medicaid cost report data.

4. Each participating nursing facility's upper payment limit (UPL) gap shall be determined as the difference between the estimated Medicare rate calculated in §20029.A.3.a and the adjusted Medicaid rate calculated in §20029.A.3.b.

a. Each facility's UPL gap is multiplied by the Medicaid days to arrive at its supplemental payment amount. Medicaid days are taken from the Medicaid cost report.

5. Frequency of Payments and Calculations

a. For each calendar quarter, an estimated interim supplemental payment will be calculated as described in this Section utilizing the latest Medicare RUGs and payment rates and Medicaid cost reports and available Medicaid payment rates. Payments will be made to each nursing facility that is owned or operated by a NSGO and that has entered into an agreement with the department to participate in the supplemental payment program.

b. Following the completion of the state's fiscal year, the final supplemental payment amount for the state fiscal year just ended will be calculated. These calculations will be based on the final Medicare RUGs and payment rates and the most recently reviewed Medicaid cost reports and Medicaid payment rates that cover the just ended state fiscal year period. The final supplemental payment calculations will be compared to the estimated interim supplemental payments, and the difference, if positive, will be paid to the NSGO, and if negative, collected from the NSGO.

6. No payment under this Section is dependent on any agreement or arrangement for provider or related entities to donate money or services to a governmental entity.

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 42:

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service and enhance the provider's ability to provide the same level of service since this proposed Rule establishes supplemental payments to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 25, 2015 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.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Non-State Governmental Organizations Supplemental Payments

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 state general fund programmatic costs of \$145,642 for FY 15-16, \$749,032 for FY 16-17 and \$749,032 for FY 17-18; however the state match shall be met through an IGT financing arrangement whereby qualifying providers shall transfer to the department funds to secure federal match in order to fund the payments for these nursing facility services. It is anticipated that \$648 (\$324 SGF and \$324

Title 43

NATURAL RESOURCES

Part XVII. Office of Conservation—Injection and Mining

Subpart 5. Statewide Order No. 29-M-3

Chapter 33. Class III (Solution-Mining) Injection Wells

§3301. Definitions

* * *

Closed Cavern Well—a solution-mining well that is no longer used, or capable of being used, to solution-mine minerals and is thus subject to the closure and post-closure requirements of §3337. The term does not include an inactive well or a previously closed cavern well.

* * *

Dual-Bore Mining—for the purposes of these rules, dual bore mining shall be defined as the solution-mining process whereby fluid injection and brine extraction are accomplished through different permitted wells.

* * *

Inactive Cavern Well—a solution-mining well that is capable of being used to solution-mine minerals but is not being so used, as evidenced by the filing of a written notice with the Office of Conservation in accordance with §3309.I.3 and §3331.

* * *

Previously Closed Cavern Well—a solution-mining well that is no longer used, or capable of being used, to solution-mine minerals and was closed prior to the effective date of these regulations.

* * *

Qualified Professional Appraiser—for the purposes of these rules, any licensed real estate appraiser holding current certification from the Louisiana Real Estate Appraisers Board and functioning within the rules and regulations of their licensure.

* * *

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 40:316 (February 2014), amended LR 42:

§3303. General Provisions

A. - B.1. ...

2. Existing solution-mining wells in compliance with statewide order no. 29-N-1, but not in compliance with statewide order no. 29-M-3 as of February 20, 2014, were allowed to continue to operate for one year under statewide order no. 29-N-1. Within that year, the owner or operator was required to submit an alternate means of compliance or a request for a variance pursuant to §3303.F and/or present a corrective action plan to meet the requirements of statewide order no. 29-M-3. During the review period of the request until a final determination is made regarding the alternate means of compliance or variance and/or corrective action plan, the affected solution-mining well may continue to operate in compliance with statewide order no. 29-N-1 in

FED) will be expended in FY 15-16 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 62.17 percent in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

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 \$239,140 for FY 15-16, \$1,225,743 for FY 16-17 and \$1,225,743 for FY 17-18. It is anticipated that \$216 will be expended in FY 15-16 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 62.17 percent in FY 15-16 and 62.07 percent in FY 16-17 and FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the reimbursement methodology for nursing facilities in order to establish supplemental payments for qualifying nursing facilities owned or operated by non-state governmental organizations (NSGOs) that enter into an agreement with the department to participate (5 nursing facilities). It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid Program for nursing facility services by approximately \$384,134 for FY 15-16, \$1,974,775 for FY 16-17 and \$1,974,775 for FY 17-18.

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 provide additional payments to nursing facilities. The additional payments may improve their financial standing and could possibly cause an increase in employment opportunities.

J. Ruth Kennedy
Medicaid Director
1510#082

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

**Class III (Solution-Mining) Injection Wells
(LAC 43:XVII.Chapter 33)**

The Department of Natural Resources, Office of Conservation has amended LAC 43:XVII.Chapter 33 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 action amends statewide order no. 29-M-3, which provides comprehensive regulations for class III (solution-mining) injection wells, as amended and enacted by Act 209 and Act 585 of the 2014 Legislative Session.

effect prior to February 20, 2014 except they must conform to the provisions of §3301, §3303.G, §3309.B, 3309.I, §3311.D.1.c, §3315, §3319.A and C, §3321.A and C, §3323.C, §3327, §3329, §3331, §3335, and §3337 of this Chapter which was effective as of February 20, 2014 .

3. By February 20, 2015, the owner or operator was required to provide for review documentation of any variance previously authorized by the Office of Conservation. Based on that review, the commissioner may terminate, modify, or revoke and reissue the existing permit with the variance if it is determined that continued operations cannot be conducted in a way that is protective of the environment, or the health, safety, and welfare of the public. The process for terminating, modifying, or revoking and reissuing the permit with the variance is set forth in 3311.K. During the review period the affected solution-mining well may continue to operate in compliance with such variance. If the commissioner does not terminate, modify, or revoke and reissue the existing permit, the affected solution-mining well may continue to operate in compliance with such variance.

C. - F.3. ...

G. Additional Requirements

1. All tests, reports, logs, surveys, plans, applications, or other submittals whether required by these rules and regulations or submitted for informational purposes are required to bear the Louisiana Office of Conservation serial number of any solution-mining or hydrocarbon storage well associated with the submittal.

2. All applications, reports, plans, requests, maps, cross-sections, drawings, opinions, recommendations, calculations, evaluations, or other submittals including or comprising geoscientific work as defined by R.S. 37:711.1 et seq., must be prepared, sealed, signed, and dated by a licensed professional geoscientist (P.G.) authorized to practice by and in good standing with the Louisiana Board of Professional Geoscientists.

3. All applications, reports, plans, requests, specifications, details, calculations, drawings, opinions, recommendations, evaluations or other submittals including or comprising the practice of engineering as defined by R.S. 37.681 et seq., must be prepared, sealed, signed, and dated by a licensed professional engineer (P.E.) authorized to practice by and in good standing with the Louisiana Professional Engineering and Land Surveying Board.

4. The commissioner may prescribe additional requirements for class III wells or projects in order to protect USDWs and the public.

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 40:318 (February 2014), amended LR 42:

§3305. Permit Requirements

A. - D.2. ...

a. the authorization is made in writing by an individual who would otherwise have signature authority as outlined in this Paragraph;

D.2.b. - F. ...

* * *

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 40:319 (February 2014), amended LR 42:

§3307. Application Content

A. - B.9.b. ...

c. National Pollutant Discharge Elimination System (NPDES) Program under the Clean Water Act;

B.9.d. - C.8. ...

9. sufficient information, including data and maps, to enable the Office of Conservation to identify oil and gas activity in the vicinity of the salt dome which may affect the proposed well; and

C.10. - G.1.b. ...

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 40:320 (February 2014), amended LR 42:

§3309. Legal Permit Conditions

A. - B. ...

1. Closure and Post-Closure. The owner or operator of a solution-mining well shall maintain financial responsibility and the resources to close, plug and abandon and, where necessary, perform post-closure care of the solution-mining well, cavern, and related facilities as prescribed by the Office of Conservation. The related facilities shall include all surface and subsurface constructions and equipment exclusively associated with the operation of the solution-mining cavern including but not limited to class II saltwater disposal wells and any associated equipment or pipelines whether located inside or outside of the permitted facility boundary. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instruments acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §3337.A and, if required, post-closure plan of §3337.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the state of Louisiana. In the event that an operator has previously provided financial security pursuant to LAC 43:XVII.3309, such operator shall provide increased financial security if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

2. ...

3. Assistance to Residents. The operator shall provide assistance to residents of areas deemed to be at immediate potential risk in the event of a sinkhole developing or other incident that leads to issuance of a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., if the potential risk or evacuation is associated with the operation of the solution-mining well or cavern.

a. Unless an operator of solution-mining well or cavern submits a plan to provide evacuation assistance, acceptable to the commissioner, within five days of the issuance of a mandatory or forced evacuation order

pursuant to R.S. 29:721 et seq., associated with the operation of a solution-mining well or cavern, the commissioner of conservation shall:

i. call a public hearing as soon as practicable to take testimony from any interested party including the authority which issued the evacuation order and local governmental officials for the affected area to establish assistance amounts for residents subject to the evacuation order and identify the operator(s) responsible for providing assistance, if any. As soon as practicable following the public hearing the commissioner shall issue an order identifying any responsible operator(s) and establishing evacuation assistance amounts. The assistance amounts shall remain in effect until the evacuation order is lifted or until a subsequent order is issued by the commissioner in accordance with Clause ii of this Subparagraph below;

ii. upon request of an interested party, call for a public hearing to take testimony from any interested party in order to consider establishing or modifying the evacuation assistance amounts and/or consider a challenge to the finding of a responsible operator(s). The public hearing shall be noticed and held in accordance with R.S. 30:6. The order shall remain in effect until the evacuation is lifted or the commissioner's order is modified, supplemented, or revoked and reissued, whichever occurs first.

b. Assistance to Residents payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

4. Reimbursement. The operator shall provide the following.

a. Reimbursement to the state or any political subdivision of the state for reasonable and extraordinary costs incurred in responding to or mitigating a disaster or emergency due to a violation of this Chapter or any rule, regulation or order promulgated or issued pursuant to this Chapter. Such costs shall be subject to approval by the director of the Governor's Office of Homeland Security and Emergency Preparedness prior to being submitted to the permittee or operator for reimbursement. Such payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

i. The commissioner shall have authority to ensure collection of reimbursement(s) due pursuant to R.S. 30:4.M.6.b and this Subparagraph.

ii. Upon petition by the state or any political subdivision of the state that is eligible for reimbursement under this Subparagraph, the commissioner shall issue an order to the permittee or operator to make payment within 30 days for the itemized costs and/or the appraised amount.

iii. Failure to make the required payment(s) shall be a violation of the permit and these rules.

iv. Should any interested party dispute the amount of reimbursement, they may call for a public hearing to take testimony from all interested parties. The public hearing shall be noticed and held in accordance with R.S. 30:6.

b. Reimbursement to any person who owns noncommercial residential immovable property located within an area under a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., for a period of more than 180 days, without interruption due to a violation of this Chapter, the permit or any order issued pursuant to this Chapter. The offer for reimbursement shall be calculated for

the replacement value of the property based upon an appraisal by a qualified professional appraiser. The replacement value of the property shall be calculated based upon the estimated value of the property prior to the time of the incident resulting in the declaration of the disaster or emergency. The reimbursement shall be made to the property owner within 30 days after notice by the property owner to the permittee or operator indicating acceptance of the offer and showing proof of continuous ownership prior to and during the evacuation lasting more than 180 days, provided that the offer for reimbursement is accepted within 30 days of receipt, and the property owner promptly transfers the immovable property free and clear of any liens, mortgages, or other encumbrances to the permittee or operator. Such payments shall not be construed as an admission of responsibility or liability.

C. - F.2. ...

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations of a solution-mining well, cavern, and related facility, or parts thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the solution-mining well, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

G. - I.8.b.ii. ...

9. The operator shall give written notification to the Office of Conservation upon permanent conclusion of solution-mining operations. Notification shall be given within seven days after concluding operations. The notification shall include the date on which mining activities were concluded, the reason for concluding the mining activities, and a plan to meet the minimum requirements as per §3331. See §3337 for additional requirements to be conducted after concluding mining activities but before closing the solution-mining well or cavern. Solution-mining caverns that are not in an inactive status as of the date written notification of permanent conclusion of solution-mining operations is submitted to the Office of Conservation will be immediately placed in an inactive status.

I.10. - J.3. ...

K. Compliance Review. The commissioner shall review each issued solution-mining well permit, area permit, and cavern at least once every five years to determine whether any permit should be modified, revoked and reissued, terminated, whether a minor modification needs to be made, or if remedial action or additional monitoring is required for any cavern. Commencement of the compliance review process for each facility shall proceed as authorized by the commissioner of conservation.

1. As a part of the five-year permit review, the operator shall submit to the Office of Conservation updated maps and cross-sections based upon best available information depicting the locations of its own caverns and proposed caverns in relation to each other, in relation to the periphery of the salt stock, and in relation to other operator's salt caverns (including solution-mining caverns, disposal caverns, storage caverns, and room and pillar salt mines) in the salt stock. These requirements may be satisfied by the

submittal of: a structure map contoured on the top of the salt dome with the maximum outline of each cavern or proposed cavern shown in aerial view; cross-sections showing the closest approach of the operator's cavern(s) to the top and edges of the salt dome; cross-sections and/or maps showing the relative position of the operator's cavern(s) to any other cavern within the area of review; and any other maps, cross-sections, surveys, or other information required by the commissioner. Also, refer to §3313 and §3315.

K.2. - M.3.c. ...

4. If the commissioner determines that any well constructed pursuant to §3309.M.3 does not satisfy any of the requirements of §3309.M.3.a and b, the commissioner may modify the permit under §3311.K.3, terminate under §3311.K.7, or take enforcement action. If the commissioner determines that cumulative effects are unacceptable, the permit may be modified under §3311.K.3.

N. - O. ...

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 40:323 (February 2014), amended LR 42:

§3311. Permitting Process

A. ...

B. Notice of Intent to File Application

1. The applicant shall make public notice that a permit application is to be filed with the Office of Conservation. A notice of intent shall be published at least 30 days but not more than 180 days before filing the permit application with the Office of Conservation. The applicant shall publish a new notice of intent if the application is not received by the Office of Conservation within the filing period.

2. - 3. ...

C. Application Submission and Review

1. The applicant shall complete, sign, and submit one original application form and one copy, with required attachments and documentation to the Office of Conservation. The commissioner may request additional paper copies of the application if it is determined that they are necessary. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations. When the application is deemed administratively complete, the applicant shall submit an electronic version of the application with the following certification statement.

"This document is an electronic version of the application titled (Insert Document Title) dated (Insert Application Date). This electronic version is an exact duplicate of the paper copy submitted in (Insert the Number of Volumes Comprising the Full Application) volumes to the Louisiana Office of Conservation."

C.2. - D.1.b. ...

c. In Iberia Parish, no permit to drill or operate a new solution-mined cavern or to return an inactive solution-mining cavern to service shall be issued without a public hearing. The owner or operator shall give public notice of the hearing on 3 separate days within a period of 30 days prior to the public hearing, with at least 5 days between each public notice, both in the official state journal and in the official journal of Iberia Parish.

D.2. - J.2.f. ...

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under §3311.K.3.b the transfer is effective on the date specified in the agreement mentioned in §3311.J.2.b.iii above.

J.2.h. - K.4.a. ...

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification. A permit may be modified to reflect a transfer after the effective date as per §3311.J.2.b.ii but will not be revoked and reissued after the effective date except upon the request of the new operator.

5. - 7.b. ...

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 40:326 (February 2014), amended LR 42:

§3313. Site Assessment

A. - A.5. ...

6. an assessment of well information and oil and gas activity within the vicinity of the salt dome which may affect the solution-mining cavern.

B. - E. ...

1. Surface Delineation

a. The area of review for an individual solution-mining well shall be a fixed radius around the wellbore of not less than 1320 feet.

b. The area of review for wells in a solution-mining project area (area permit), shall be the project area plus a circumscribing area the width of which is not less than 1320 feet. The area of review for new solution-mining wells within an existing area permit shall be a circumscribing area around the proposed solution-mining well the width of which is not less than 1320 feet. Only information outlined in §3313.E.2, not previously assessed as part of the area permit application review or as part of the review of an application for a subsequent solution-mining well located within the area permit, shall be considered.

c. Exception shall be noted as shown in §3313.E.2.c and d below.

E.2. - F.2. ...

3. No permit to inject shall be issued for a new solution-mining well until all required corrective action obligations have been fulfilled.

4. - 7. ...

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 40:330 (February 2014), amended LR 42:

§3315. Cavern and Surface Facility Design Requirements

A. - B.1.a.ii. ...

iii. If no objection from a non-consenting adjacent property owner is received within 30 days of the notice provided in accordance with Clause 1.a.i above, then the commissioner may approve the continued operation of the cavern administratively.

1.b. - 3.b. ...

c. Without exception or variance to these rules and regulations, an existing solution-mining cavern with cavern walls 100 feet or less from the periphery of the salt stock shall be removed from service immediately and permanently. An enhanced monitoring plan in conformance with Subparagraph b above for long term monitoring shall be prepared and submitted to the Office of Conservation. Once approved, the owner or operator shall implement the enhanced monitoring plan.

d. For solution-mining caverns in existence as of the effective date of these regulations with less than 300 feet but more than 100 feet of salt separation at any point between the cavern walls and the periphery of the salt stock, continued or additional solution-mining may be allowed upon submittal of an enhanced monitoring plan in conformance with Subparagraph b above in addition to any additional maps, studies, tests, assessments, or surveys required by the commissioner to show that the cavern is capable of continued safe operations.

C. ...

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 40:332 (February 2014), amended 42:

§3317. Well Construction and Completion

A. - D.3. ...

E. Cased Borehole Surveys. A cement bond with variable density log (or similar cement evaluation tool) shall be run on all casing strings when practicable. A temperature log shall be run on all casing strings. The Office of Conservation may consider requests for alternative logs, tests, or surveys for wireline logging in large diameter casings or justifiable special conditions. A descriptive report interpreting the results of such logs shall be prepared and submitted to the commissioner.

1. - 2. ...

F. Hanging Strings. Without exception or variance to these rules and regulations, all active solution-mining wells shall be completed with at least two hanging strings except as provided for dual-bore mining. One hanging string shall be for injection; the second hanging string shall be for displacing fluid out of the cavern from below the blanket material. The commissioner may approve a request for a single hanging string in active solution-mining wells only in the case of dual-bore mining. Without exception or variance to these rules and regulations, all inactive solution-mining wells shall be completed with at least one hanging string. Hanging strings shall be designed with a collapse, burst, and tensile strength rating conforming to all expected operating conditions. The design shall also consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the cavern.

G. ...

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 40:333 (February 2014), amended LR 42:

§3319. Operating Requirements

A. ...

B. Blanket Material. Before beginning solution-mining operations, a blanket material shall be placed into the cavern to prevent unwanted leaching of the cavern roof. The blanket material shall consist of crude oil, diesel, mineral oil, or other fluid possessing similar noncorrosive, nonsoluble, low-density properties. The blanket material shall be placed between the outermost hanging string and innermost cemented casing of the cavern and shall be of sufficient volume to coat the entire cavern roof. In all caverns which have not been plugged and abandoned, the cavern roof and level of the blanket material shall be monitored at least once every five years by running a density interface survey or using an alternative method approved by the Office of Conservation. A blanket meeting the requirements of this section shall remain in place for active caverns and shall be removed from inactive caverns only upon the approval of the Office of Conservation.

C. - F.3. ...

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 40:335 (February 2014), amended LR 42:

§3321. Safety

A. Emergency Action Plan. An emergency action plan containing emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency shall be kept at the facility and shall be reviewed and updated as needed. An outline of the plan, including emergency contact telephone numbers, shall be prepared and submitted as part of the permit application or compliance review.

B. ...

C. Personnel. While solution-mining, testing, or performing any work requiring a UIC-17 (work permit), trained and competent personnel shall be on duty and stationed as appropriate at the solution-mining well during all hours and phases of facility operation. If the solution-mining facility chooses to use an offsite monitoring and control automated telemetry surveillance system, approved by the commissioner, provisions shall be made for trained personnel to be on-call at all times and 24-hour-a-day staffing of the facility may not be required.

D. - I.1. ...

J. - J.2. Repealed.

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 40:335 (February 2014), amended LR 42:

§3323. Monitoring Requirements

A. - C.3. ...

D. Subsidence Monitoring. The owner or operator shall prepare and carry out a plan approved by the commissioner to monitor ground subsidence at and in the vicinity of the solution-mining cavern(s). The monitoring plan should include at a minimum all wells/caverns belonging to the

owner or operator regardless of the status of the cavern. Frequency of subsidence monitoring shall be scheduled to occur annually during the same period. A monitoring report with interpretation shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

E. - F. ...

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 40:336 (February 2014), amended LR 42:

§3327. Well and Cavern Mechanical Integrity Pressure and Leak Tests

A. - B. ...

1. Without exception or variance to these rules and regulations, all solution-mining wells and caverns shall be tested for and satisfactorily demonstrate mechanical integrity before beginning injection activities.

2. For solution-mining wells and caverns permitted on the effective date of these regulations, if a mechanical integrity test (MIT) has not been run on the well or cavern within three years prior to the effective date of these regulations, the operator must run an MIT within two years in order to remain in compliance.

3. - 3.b. ...

c. before returning the cavern to hydrocarbon storage service after a period of salt solution-mining or washing to purposely increase storage cavern size or capacity;

d. after completion of any additional mining or salt washing for caverns engaging in simultaneous storage and salt solution-mining or washing that results in a significant increase in cavern volume or change in cavern configuration;

e. before well closure, except when the cavern has experienced mechanical failure;

f. whenever leakage into or out of the cavern is suspected;

g. whenever the commissioner determines a test is warranted.

C. - C.5. ...

6. Any MIT performed on a solution-mining cavern shall include a separate pressure test on the casing of at least 60 minutes.

D. - E. ...

1. Without exception or variance to these rules and regulations, a solution-mining well or cavern that fails a test for mechanical integrity shall be immediately taken out of service. The failure shall be reported to the Office of Conservation according to the notification requirements of §3309.I.8. The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the solution-mining well or cavern to a full state of mechanical integrity. A solution-mining well or cavern is considered to have failed a test for mechanical integrity for the following reasons:

1.a. - 5. ...

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 40:337 (February 2014), amended LR 42:

§3329. Cavern Configuration and Capacity Measurements

A. - B.2. ...

3. before returning the cavern to storage service after a period of salt solution-mining or washing to purposely increase the storage cavern size or capacity;

4. after completion of any additional solution-mining or washing for caverns engaged in simultaneous storage and salt solution-mining; or

5. whenever the Office of Conservation believes a survey is warranted.

C. - C.2. ...

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 40:339 (February 2014), amended LR 42:

§3331. Inactive Caverns and Caverns in which Mining Activities are to be Concluded

A. - A.6. ...

7. No inactive solution-mining cavern may be returned to service without first submitting a written request and work permit application to the Office of Conservation and obtaining approval of the commissioner.

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 40:339 (February 2014), amended LR 42:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., November 9, 2015, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. CRA 2015-11 on all correspondence. All inquiries should be directed to Stephen Lee at the above addresses or by phone to (225) 342-5569. No preamble was prepared.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Class III (Solution-Mining)
Injection Wells**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated additional cost to state or local governmental expenditures or an anticipated increase in workload as a result of the proposed rule change. Pursuant to Act 691 and Act 766 of the 2014 Regular Legislative Session, the proposed rule change specifies; (1) criteria for public hearings for permitting solution mining wells in Iberia Parish; (2) provides for reimbursement for non-commercial property owners subject to evacuation resulting from emergencies associated with solution mining wells; (3) authorizes the commissioner of conservation to ensure collection of reimbursement to the above referenced non-commercial property owners and reimbursement to the state and any political subdivision of the state for costs incurred in responding to emergencies associated with solution mining wells; (4) requires submittals to the Office of Conservation from solution mining well operators to include the associated state solution mining well serial number with any submittal; (5) corrects typographical errors; (6) adds language to clarify the existing regulations; and (7) adds a definition related to new regulatory requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are not expected to have any effect on revenue collections of state or local government units. In the unlikely event that an emergency situation associated with a solution mining well that leads to State response costs, the rule amendments clarify that the Commissioner of Conservation has the authority to recover the State's emergency response costs from the operator of the solution mining well. The recovery of these costs could be classified as a revenue stream for the Office of Conservation as no previous emergency response costs incurred have been recovered.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will only affect the owners and/or operators of solution mining wells. No increased costs to operators of solution mining wells seeking permits in Iberia Parish are expected. Any additional advertising costs associated with the requirement for increased public notice for public hearings in Iberia Parish will be covered by the current Office of Conservation fee for public hearings. There is no anticipated increase in cost to operators of solution mining wells or facilities due to the requirement for reimbursement to noncommercial immovable property owners subject to an evacuation order associated with emergencies related to solution mining. In the unlikely event that an emergency situation associated with a solution mining well leads to a forced or mandatory evacuation being in place for more than 180 days, the new rule, consistent with Act 691 of 2014, requires that the operator of the well provide an offer to reimburse the owners of the non-commercial immovable property. It is indeterminable if any additional costs to the solution mining well operator would be greater than what is currently required by law. All other rule changes will result in no increased costs to solution mining well operators. All required documentation will be provided on existing paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

James H. Welsh
Commissioner
1510#056

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

**Hydrocarbon Storage Wells in Salt Dome Cavities
(LAC 43:XVII.Chapter 3)**

The Department of Natural Resources, Office of Conservation has amended LAC 43:XVII.Chapter 3 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 action adopts statewide order no. 29-M, which provides comprehensive regulations for hydrocarbon storage wells in salt dome cavities, and will amend existing statewide order no. 29-M, as amended and enacted by Act 209 and Act 585 of the 2014 Legislative Session.

Title 43

NATURAL RESOURCES

Part XVII. Office of Conservation—Injection and Mining

Subpart 3. Statewide Order No. 29-M

Chapter 3. Hydrocarbon Storage Wells in Salt Dome Cavities

§301. Definitions

* * *

Hydrocarbon Storage Cavern—a salt cavern created within the salt stock by solution-mining and used to store liquid, liquefied, or gaseous hydrocarbons.

* * *

Produced Water—liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution-mining for brine.

* * *

Qualified Professional Appraiser—for the purposes of these rules, any licensed real estate appraiser holding current certification from the Louisiana Real Estate Appraisers Board and functioning within the rules and regulations of their licensure.

* * *

Solution-Mining Injection Well—a well used to inject fluids, other than fluids associated with active drilling operations, for the extraction of minerals or energy.

* * *

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 3:310 (July 1977), amended LR 40:342 (February 2014), amended LR 42:

§303. General Provisions

A. - A.2.d. ...

3. That in presenting evidence to the commissioner to enable him to make the findings described above, the applicant shall demonstrate that the proposed storage of liquid, liquefied, or gaseous hydrocarbons will be conducted in a manner consistent with established practices to preserve the integrity of the salt stock and the overlying sediments. This shall include an assessment of the stability of the proposed cavern design, particularly with regard to the size, shape and depth of the cavern, the amount of separation among caverns, the amount of separation between the outermost cavern wall and the periphery of the salt stock, and any other requirements of this Rule.

A.4. - B.1. ...

2. Hydrocarbon storage caverns in existence prior to February 20, 2014 that were in compliance with statewide order no. 29-M in effect at that time, but not in compliance with statewide order no. 29-M that went into effect on February 20, 2014, were allowed to continue to operate for one year under the prior statewide order no. 29-M. Within that year, the owner or operator was required to submit an alternate means of compliance or a request for a variance pursuant to §303.F and/or present a corrective action plan to meet the requirements of statewide order no. 29-M. During the review period of the request until a final determination is made regarding the alternate means of compliance or variance and/or corrective action plan, the affected hydrocarbon storage well may continue to operate in compliance with statewide order no. 29-M in effect prior to February 20, 2014, except they must conform to the provisions of §301, §303.G, §309.B, 309.I, §311.D.1.c, §315, §319.A and B, §321.A and C, §323.C, §327, §329, §331, §335 and §337 of this Chapter.

3. By February 20, 2015, the owner or operator was required to provide for review documentation of any variance previously authorized by the Office of Conservation. Based on that review, the commissioner may terminate, modify, or revoke and reissue the existing permit with the variance if it is determined that continued operations cannot be conducted in a way that is protective of the environment, or the health, safety, and welfare of the public. The process for terminating, modifying, or revoking and reissuing the permit with the variance is set forth in 311.K. During the review period the affected hydrocarbon storage well may continue to operate in compliance with such variance. If the commissioner does not terminate, modify, or revoke and reissue the existing permit, the affected hydrocarbon storage well may continue to operate in compliance with such variance.

C. - F.3. ...

G. Additional Requirements

1. All tests, reports, logs, surveys, plans, applications, or other submittals whether required by these rules and regulations or submitted for informational purposes are required to bear the Louisiana Office of Conservation serial number of any solution-mining or hydrocarbon storage well associated with the submittal.

2. All applications, reports, plans, requests, maps, cross-sections, drawings, opinions, recommendations, calculations, evaluations, or other submittals including or

comprising geoscientific work as defined by R.S. 37:711.1 et seq., must be prepared, sealed, signed, and dated by a licensed professional geoscientist (P.G.) authorized to practice by and in good standing with the Louisiana Board of Professional Geoscientists.

3. All applications, reports, plans, requests, designs, specifications, details, calculations, drawings, opinions, recommendations, evaluations or other submittals including or comprising the practice of engineering as defined by R.S. 37:681 et seq., must be prepared, sealed, signed, and dated by a licensed professional engineer (P.E.) authorized to practice by and in good standing with the Louisiana Professional Engineering and Land Surveying Board.

4. The commissioner may prescribe additional requirements for hydrocarbon storage wells or projects in order to protect USDWs and the public.

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 3:310 (July 1977), amended LR 40:344 (February 2014), amended LR 42:

§305. Permit Requirements

A. - D.2. ...

a. the authorization is made in writing by an individual who would otherwise have signature authority as outlined in this Paragraph;

2.b. - 4. ...

E. Signature Reauthorization. If an authorization under §305.D is no longer accurate because a different individual or position has responsibility for the overall operation of a hydrocarbon storage facility, a new authorization satisfying the signature requirements must be submitted to the Office of Conservation before or concurrent with any reports, information, or applications required to be signed by an authorized representative.

F. Certification. Any person signing an application under §305.D shall make the following certification on the application.

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine, and/or imprisonment."

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 40:346 (February 2014), amended LR 42:

§307. Application Content

A. - B.9.b. ...

c. National Pollutant Discharge Elimination System (NPDES) Program under the Clean Water Act;

9.d. -10. ...

11. documentation of financial responsibility for closure and post-closure, or documentation of the method by which proof of financial responsibility for closure and post-closure as required in §309.B will be provided. Before making a final permit decision, the instrument of financial responsibility for closure and post-closure must be submitted to and approved by the Office of Conservation;

B.12. - C.8. ...

9. sufficient information, including data and maps, to enable the Office of Conservation to identify oil and gas activity in the vicinity of the salt dome which may affect the proposed well; and

C.10. - D.3.a. ...

b. well type and current well status (producing, disposal, storage, solution-mining, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

3.c. - 4.a.i. ...

ii. current or previous use of the cavern (waste disposal, hydrocarbon storage, solution-mining), current status of the cavern (active, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

D.4.a.iii - E.9.l. ...

m. the reporting requirements of §333, including, but not limited to the information required in quarterly operation reports;

E.9.n. - G.1.b. ...

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 40:347 (February 2014), amended LR 42:

§309. Legal Permit Conditions

A. - B. ...

1. Closure and Post-Closure. The owner or operator of a hydrocarbon storage well shall maintain financial responsibility and the resources to close, plug and abandon and where necessary, perform post-closure care of the hydrocarbon storage well, cavern, and related facilities as prescribed by the Office of Conservation. The related facilities shall include all surface and subsurface constructions and equipment exclusively associated with the operation of the hydrocarbon storage cavern including but not limited to class II saltwater disposal wells and any associated equipment or pipelines whether located inside or outside of the permitted facility boundary. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instrument acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §337.A and post-closure plan of §337.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the state of Louisiana. In the event that an operator has previously provided financial security pursuant to LAC 43:XVII.309, such operator shall provide increased financial security if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

2. ...

3. Assistance to Residents. The operator shall provide assistance to residents of areas deemed to be at immediate potential risk in the event of a sinkhole developing or other incident that leads to issuance of a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., if the potential risk or evacuation is associated with the operation of a hydrocarbon storage well or cavern.

a. Unless an operator of a hydrocarbon storage well or cavern submits a plan to provide evacuation assistance, acceptable to the commissioner, within five days of the issuance of a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq., associated with the operation of a hydrocarbon storage well or cavern, the commissioner of conservation shall:

i. call a public hearing as soon as practicable to take testimony from any interested party including the authority which issued the evacuation order and local governmental officials for the affected area to establish assistance amounts for residents subject to the evacuation order and identify the operator(s) responsible for providing assistance, if any. As soon as practicable following the public hearing the commissioner shall issue an order identifying any responsible operator(s) and establishing evacuation assistance amounts. The assistance amounts shall remain in effect until the evacuation order is lifted or until a subsequent order is issued by the commissioner in accordance with Clause ii of this Subparagraph below;

ii. upon request of an interested party, call for a public hearing to take testimony from any interested party in order to consider establishing or modifying evacuation assistance amounts and/or consider a challenge to the finding of a responsible operator(s). The public hearing shall be noticed and held in accordance with R.S. 30:6. The order shall remain in effect until the evacuation is lifted or the commissioner's order is modified, supplemented, or revoked and reissued, whichever occurs first.

b. Assistance to Residents payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

4. Reimbursement. The operator shall provide the following.

a. Reimbursement to the state or any political subdivision of the state for reasonable and extraordinary costs incurred in responding to or mitigating a disaster or emergency due to a violation of this Chapter or any rule, regulation or order promulgated or issued pursuant to this Chapter. Such costs shall be subject to approval by the director of the Governor's Office of Homeland Security and Emergency Preparedness prior to being submitted to the permittee or operator for reimbursement. Such payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

i. The commissioner shall have authority to ensure collection of reimbursement(s) due pursuant to R.S. 30:4(M)6.b and this Subparagraph.

ii. Upon petition by the state or any political subdivision of the state that is eligible for reimbursement under this Subparagraph, the commissioner shall issue an order to the permittee or operator to make payment within 30 days for the itemized costs and/or the appraised amount.

iii. Failure to make the required payment(s) shall be a violation of the permit and these rules.

iv. Should any interested party dispute the amount of reimbursement, they may call for a public hearing to take testimony from all interested parties. The public hearing shall be noticed and held in accordance with R.S. 30:6.

b. Reimbursement to any person who owns noncommercial residential immovable property located within an area under a mandatory or forced evacuation order

pursuant to R.S. 29:721 et seq., for a period of more than 180 days, without interruption due to a violation of this Chapter, the permit or any order issued pursuant to this Chapter. The offer for reimbursement shall be calculated for the replacement value of the property based upon an appraisal by a qualified professional appraiser. The replacement value of the property shall be calculated based upon the estimated value of the property prior to the time of the incident resulting in the declaration of the disaster or emergency. The reimbursement shall be made to the property owner within 30 days after notice by the property owner to the permittee or operator indicating acceptance of the offer and showing proof of continuous ownership prior to and during the evacuation lasting more than 180 days, provided that the offer for reimbursement is accepted within 30 days of receipt, and the property owner promptly transfers the immovable property free and clear of any liens, mortgages, or other encumbrances to the permittee or operator. Such payments shall not be construed as an admission of responsibility or liability.

C. - F.2. ...

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations of a hydrocarbon storage well, cavern, and related facility, or part thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the hydrocarbon storage well, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

F.3.a. - I.8.b.ii.

9. The operator shall give written notification to the Office of Conservation upon permanent conclusion of hydrocarbon storage operations. Notification shall be given within seven days after concluding storage operations. The notification shall include the date on which storage activities were concluded, the reason for concluding the storage activities, and a plan to meet the minimum requirements as per §331. See §337 for additional requirements to be conducted after concluding storage activities but before closing the hydrocarbon storage well or cavern. Hydrocarbon storage caverns that are not in an inactive status as of the date written notification of permanent conclusion of storage operations is submitted to the Office of Conservation will be immediately placed in an inactive status.

I.10. - J.3. ...

K. Compliance Review. The commissioner shall review each issued hydrocarbon storage well permit, area permit, and cavern at least once every five years to determine whether any permit should be modified, revoked and reissued, terminated, whether minor modifications are needed, or if remedial action or additional monitoring is required for any cavern. Commencement of the compliance review process for each facility shall proceed as authorized by the commissioner of conservation.

1. As a part of the five-year permit review, the operator shall submit to the Office of Conservation updated maps and cross sections based upon best available

information depicting the locations of its own caverns and proposed caverns in relation to each other, in relation to the periphery of the salt stock, and in relation to other operators' salt caverns (including solution-mining caverns, disposal caverns, storage caverns, and room and pillar salt mines) in the salt stock. These requirements may be satisfied by the submittal of: a structure map contoured on the top of the salt dome with the maximum outline of each cavern or proposed cavern shown in aerial view; cross-sections showing the closest approach of the operator's cavern(s) to the top and edges of the salt dome; cross-sections and/or maps showing the relative position of the operator's cavern(s) to any other cavern within the area of review, and; any other maps, cross-sections, surveys, or other information required by the commissioner. Also, refer to §313 and §315.

K.2. - M.3.c. ...

4. If the commissioner determines that any well constructed pursuant to §309.M.3 does not satisfy any of the requirements of §309.M.3.a and b, the commissioner may modify the permit under §311.K.3, terminate under §311.K.7, or take enforcement action. If the commissioner determines that cumulative effects are unacceptable, the permit may be modified under §311.K.3.

N. Recordation of Notice of Existing Hydrocarbon Storage Caverns. The owner or operator of an existing hydrocarbon storage cavern shall record a certified survey plat of the well location for the cavern in the mortgage and conveyance records of the parish in which the property is located. Such notice shall be recorded no later than six months after the effective date of these rules and the owner or operator shall furnish a date/file -stamped copy of the recorded notice to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

O. ...

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 40:349 (February 2014), amended LR 42:

§311. Permitting Process

A. - C. ...

1. The applicant shall complete, sign, and submit one original application form and one copy, with required attachments and documentation to the Office of Conservation. The commissioner may request additional paper copies of the application if it is determined that they are necessary. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations. When the application is deemed administratively complete, the applicant shall submit an electronic version of the application with the following certification statement.

"This document is an electronic version of the application titled (Insert Document Title) dated (Insert Application Date). This electronic version is an exact duplicate of the paper copy submitted in (Insert the Number of Volumes Comprising the Full Application) volumes to the Louisiana Office of Conservation."

C.2. - D.1.b. ...

c. In Iberia Parish, no permit to convert an existing solution-mined cavern to hydrocarbon storage, to expand an existing hydrocarbon storage cavern, or to return an inactive hydrocarbon storage cavern to service shall be issued without a public hearing. The owner or operator shall give public notice of the hearing on 3 separate days within a period of 30 days prior to the public hearing, with at least 5 days between each public notice, both in the official state journal and in the official journal of Iberia Parish.

2. - 2.b. ...

- i. the applicant;
- ii. all property owners within 1320 feet of the hydrocarbon storage facility's property boundary;
- iii. operators of existing projects located on or within the salt stock of the proposed project;
- iv. United States Environmental Protection Agency;
- v. Louisiana Department of Wildlife and Fisheries;
- vi. Louisiana Department of Environmental Quality;
- vii. Louisiana Office of Coastal Management;
- viii. Louisiana Office of Conservation, Pipeline Division;
- ix. Louisiana Department of Culture, Recreation and Tourism, Division of Archaeology;
- x. the governing authority for the parish of the proposed project; and
- xi. any other interested parties.

D.3. - J.2.f. ...

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under §311.K.3.b, the transfer is effective on the date specified in the agreement mentioned in Clause b.iii above.

h. Any additional information as may be required to be submitted by these regulations or the Office of Conservation.

K. - K.4. ...

a. Cause exists for termination under §311.K.7, and the Office of Conservation determines that modification or revocation and reissuance is appropriate.

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification. A permit may be modified to reflect a transfer after the effective date as per §311.J.2.b.ii but will not be revoked and reissued after the effective date except upon the request of the new operator.

5. - 7.b. ...

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 40:352 (February 2014), amended LR 42:

§313. Site Assessment

A. - A.5. ...

6. an assessment of well information and oil and gas activity within the vicinity of the salt dome which may affect the hydrocarbon storage cavern.

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

b. The area-of-review for wells in a hydrocarbon storage project area (area permit), shall be the project area plus a circumscribing area the width of which is not less than 1320 feet. The area of review for new hydrocarbon storage wells within an existing area permit shall be a circumscribing area around the proposed hydrocarbon storage well the width of which is not less than 1320 feet. Only information outlined in §313.E.2, not previously assessed as part of the area permit application review or as part of the review of an application for a subsequent hydrocarbon storage well located within the approved area permit, shall be considered.

E.1.c. - F.7. ...

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 40:357 (February 2014), amended LR 42:

§315. Cavern Design and Spacing Requirements

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

c. Without exception or variance to these rules and regulations, an existing hydrocarbon storage cavern with cavern walls 100 feet or less from the periphery of the salt stock shall be removed from hydrocarbon storage service immediately and permanently. An enhanced monitoring plan in conformance with Subparagraph b above for long term monitoring shall be prepared and submitted to the Office of Conservation. Once approved, the owner or operator shall implement the enhanced monitoring plan.

d. For hydrocarbon storage caverns in existence as of the effective date of these regulations with less than 300 feet but more than 100 feet of salt separation at any point between the cavern walls and the periphery of the salt stock, continued hydrocarbon storage may be allowed upon submittal of an enhanced monitoring plan in conformance with Subparagraph b above in addition to any additional maps, studies, tests, assessments, or surveys required by the commissioner to show that the cavern is capable of continued safe operations.

C. ...

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 40:358 (February 2014), amended LR 42:

§317. Well Construction and Completion

A. - D.3. ...

E. Cased Borehole Surveys. A cement bond with variable density log (or similar cement evaluation tool) shall be run on all casing strings when practicable. A temperature log shall be run on all casing strings. The Office of Conservation may consider requests for alternative logs, tests, or surveys for wireline logging in large diameter casings or justifiable special conditions. A descriptive report interpreting the results of such logs shall be prepared and submitted to the commissioner.

1. - 3. ...

F. Hanging Strings. All active hydrocarbon storage wells shall be completed with at least one hanging string unless specifically exempted from this requirement by the commissioner. The commissioner may administratively approve operation of an active hydrocarbon storage cavern

without a hanging string upon a showing of good cause and practical necessity by the operator. Hanging strings shall be designed with a collapse, burst, and tensile strength rating conforming to all expected operating conditions. The design shall also consider the physical and chemical characteristics of fluids placed into and withdrawn from the cavern.

G. ...

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 40:000 (February 2014).

§321. Safety

A. Emergency Action Plan. An Emergency Action Plan containing emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency shall be kept at the facility and shall be reviewed and updated as needed. An outline of the plan, including emergency contact telephone numbers, shall be prepared and submitted as part of the permit application or compliance review.

B. - K. ...

L. - L.2. Repealed.

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 40:362 (February 2014), amended LR 42:

§323. Monitoring Requirements

A. - C.2. ...

3. A casing inspection or similar log shall be run on the entire length of the innermost cemented casing in each well at least once every 10 years for liquid hydrocarbon storage caverns and every 15 years for natural gas storage caverns.

C.4. - D.2. ...

E. Subsidence Monitoring and Frequency. The owner or operator shall prepare and carry out a plan approved by the commissioner to monitor ground subsidence at and in the area of the storage cavern(s). A monitoring report with interpretation shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

E.1. - G. ...

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 40:363 (February 2014), amended LR 42:

§327. Well and Cavern Mechanical Integrity Pressure and Leak Tests

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

c. before returning the cavern to hydrocarbon storage service after a period of salt solution-mining or washing to purposely increase storage cavern size or capacity;

d. after completion of any additional mining or salt washing for caverns engaging in simultaneous storage and salt solution-mining or washing that results in a significant increase in cavern volume or change in cavern configuration;

e. before well closure, except when the cavern has experienced mechanical failure;

f. whenever leakage into or out of the cavern is suspected;

g. whenever the commissioner determines a test is warranted.

C. - C.5. ...

6. Any MIT performed on a hydrocarbon storage cavern shall include a separate pressure test on the casing of at least 60 minutes.

D. - E. ...

1. Without exception or variance to these rules and regulations, a storage well or cavern that fails a test for mechanical integrity shall be immediately taken out of service. The failure shall be reported to the Office of Conservation according to the notification requirements of §309.I.8. The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the storage well or cavern to a full state of mechanical integrity. A storage well or cavern is considered to have failed a test for mechanical integrity for the following reasons:

1.a. - 3.a. ...

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 40:364 (February 2014), amended LR 42:

§329. Cavern Configuration and Capacity Measurements

A. ...

B. Frequency of Surveys. For liquid hydrocarbon storage caverns, a sonar caliper survey, or other approved survey, shall be performed at least once every 5 years. At least once every 10 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern. For natural gas storage caverns, a sonar caliper survey, or other approved survey, shall be performed at least once every 5 years. At least once every 15 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern. For natural gas storage caverns engaging in simultaneous storage and salt solution-mining or washing, a sonar caliper survey, or other approved survey, shall be performed in accordance with this article or in accordance with LAC 43:XVII.3329, whichever requires the more frequent survey. For natural gas storage caverns of small size, stable configuration, and favorable positioning within the salt stock, the commissioner may approve partial sonar caliper surveys in fulfillment of the required surveys excepting the required survey at least once every 15 years to log the roof of the cavern. Additional surveys as specified by the Office of Conservation shall be performed for any of the following reasons regardless of frequency:

1. - 2. ...

3. before returning the cavern to storage service after a period of salt solution-mining or washing to purposely increase storage cavern size or capacity;

4. after completion of any additional mining or salt washing for caverns engaging in simultaneous storage and salt solution-mining or washing;

B.5. - C.2. ...

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 40:366 (February 2014), amended LR 42:

§331. Inactive Caverns

A. - A.6. ...

7. No inactive hydrocarbon storage cavern may be returned to service without first submitting a written request and work permit application to the Office of Conservation and obtaining approval of the commissioner.

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 40:366 (February 2014), amended LR 42:

§337. Closure and Post-Closure

A. - A.3. ...

a. assurance of financial responsibility as required in §309.B.1. All instruments of financial responsibility shall be reviewed according to the following process:

i. detailed cost estimate for closure of the well and related appurtenances (well, cavern, surface appurtenances, etc.) as prepared by a qualified professional. The closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation;

A.3.a.ii. - B.3. ...

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 40:367 (February 2014), amended LR 42:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., November 9, 2015, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. CRA 2015-12. All inquiries should be directed to Stephen Lee at the above addresses or by phone to (225) 342-5569. No preamble was prepared.

James H. Welsh
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hydrocarbon Storage Wells
in Salt Dome Cavities**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated additional cost to state or local governmental expenditures nor an anticipated increase in workload as a result of the proposed rule change. Pursuant to

Act 691 and Act 766 of the 2014 Regular Legislative Session, the proposed rule change specifies; (1) criteria for public hearings for permitting hydrocarbon storage wells in Iberia Parish; (2) provides for reimbursement for non-commercial property owners subject to evacuation resulting from emergencies associated with hydrocarbon storage wells; (3) authorizes the commissioner of conservation to ensure collection of reimbursement to the above referenced non-commercial property owners and reimbursement to the state and any political subdivision of the state for costs incurred in responding to emergencies associated with hydrocarbon storage wells; (4) requires submittals to the Office of Conservation from hydrocarbon storage operators to include the associated state hydrocarbon storage well serial number with any submittal; (5) corrects typographical errors; (6) adds language to clarify the existing regulations; and (7) adds a definition related to new regulatory requirements.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will have no effect on revenue collections of state or local government units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed rule change will only affect the owners and/or operators of hydrocarbon storage wells. There will be no increased costs to operators of hydrocarbon storage wells seeking permits in Iberia Parish. Any additional advertising costs associated with the requirement for increased public notice for public hearings in Iberia Parish are covered by the current Office of Conservation fee for public hearings. There is no anticipated increase in cost to operators of hydrocarbon storage wells or facilities due to the requirement for reimbursement to noncommercial immovable property owners subject to an evacuation order associated with emergencies related to hydrocarbon storage. The current rules and regulations have been promulgated to prevent such emergencies from occurring. All other rule changes will result in no increased costs to hydrocarbon storage well operators. All required documentation will be provided on existing paperwork.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule change will have no effect on competition and employment.

James H. Welsh
Commissioner
1510#057

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the Louisiana State
Employees' Retirement System**

Limitation on Earnings (LAC 58:I.2513)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes a repeal of LAC 58:I.2513 in its entirety. A review of the rule shows that it is repetitive and potentially confusing. Because the rule essentially duplicates the provisions of the statutory law enumerated in R.S. 11:221 concerning a limitation on earnings, a repeal of §2513 would streamline and simplify LASERS disability rules. The proposed rule change complies with and is enabled by R.S. 11:515.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System
Chapter 25. Procedures for Processing Disability
Applications**

§2513. Limitation on Earnings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:1581 (September 2001), LR 38:836 (March 2012), repealed LR 42:

Family Impact Statement

The proposed Rule repeal is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule repeal is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule repeal is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule repeal is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 30, 2015 to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804. No Rule preamble has been prepared.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Limitation on Earnings**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. The proposed change repeals a rule provision on disability retiree earnings limits that is unneeded because statutory law, §221 of Title 11 of the Revised Statutes, covers the same subject matter and remains in effect.

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 as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change concerns disability beneficiaries engaged in a gainful occupation paying more than the difference between their retirement allowance and their average final compensation. The proposed repeal of §2513 will not change these limits because La. R.S. 11:221 remains the law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Cindy Rougeou
Executive Director
1510#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
Municipal Police Employees' Retirement System**

Vesting of Benefits on Plan Termination (LAC
58:XVIII.105)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:2225(B), that the Board of Trustees of the Municipal Police Employees' Retirement System has approved for advertisement the adoption of §105 of Chapter 1 of Part XVIII, included in Title 58, Retirement, of the *Louisiana Administrative Code*. The proposed Rule is being adopted to reiterate that a member's accrued benefits are non-forfeitable to the extent funded upon termination of the Municipal Police Employees' Retirement System and to assure that the Municipal Police Employees' Retirement System will remain a tax-qualified retirement plan under the United States *Internal Revenue Code* and the regulations thereunder. A preamble to this proposed action has not been prepared.

Title 58

RETIREMENT

Part XVIII. Municipal Police Employees' Retirement System

Chapter 1. Internal Revenue Code Provisions

§105. Vesting of Benefits at Plan Termination

A. In the event of termination or partial termination of the system's pension plan, accrued benefits of affected members shall become vested and nonforfeitable to the extent funded as of the date of the termination or partial termination of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 42:

Family Impact Statement

The proposed adoption of LAC 58:XVIII.105, regarding Internal Revenue Code provisions applicable to the Municipal Police Employees' Retirement System, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D), or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; or

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- 1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
- 3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Any interested person may submit written comments regarding this proposed Rule to Kathy Bourque, Director, Municipal Police Employees' Retirement System by mail to 7722 Office Park Blvd., Suite 200, Baton Rouge, LA 70809. All comments must be received no later than 4:30 p.m., November 16, 2015.

Kathy Bourque
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Vesting of Benefits at Plan Termination**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed rule change. The proposed rule change clarifies statutory language and reiterates that a member's accrued benefits are nonforfeitable upon termination of the Municipal Police Employees' Retirement System. This is a requirement of the Internal Revenue Code to remain a tax-qualified retirement plan.

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 the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment as a result of the proposed rule change.

Kathy Bourque
Director
1510#012

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Workforce Commission
Office of Workers' Compensation Administration**

Medical Treatment Guidelines
(LAC 40:I.2519, 2701, 2705, 2707,
5101, 5113, 5315, and 5399)

The Louisiana Workforce Commission does hereby give notice of its intent to amend certain portions of the medical guidelines contained in the *Louisiana Administrative Code*, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapters 25, 27, 51, and 53 regarding ICD-10 medical coding. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C).

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

**Chapter 25. Hospital Reimbursement Schedule,
Billing Instruction and Maintenance
Procedures**

Editor's Note: Other Sections applying to this Chapter can be found in Chapter 51.

§2519. Outlier Reimbursement and Appeals Procedures

A. Automatic Outliers. Inpatient hospital acute care services falling within certain diagnosis code ranges will be reimbursed outside the normal per diem reimbursement method. These atypical admissions will be paid at covered billed charges less a 15 percent discount. Conditions requiring acute care inpatient hospital services that are work-related and are recognized as "automatic outliers" are:

- 1. AIDS: ICD-10 diagnosis code B20;
- 2. Acute Myocardial Infarction: ICD10 diagnosis codes: I213, I214, I220, I221, I222, I228, I229; I2101, I2102, I2109, I2111, I2119, I2121, I2129; and
- 3. severe burns: ICD-10 diagnosis codes: T2030XA, T20311A, T20312A, T20319A, T2032XA, T2033XA, T2034XA, T2035XA, T2036XA, T2037XA, T2039XA, T2070XA, T20711A, T20712A, T20719A, T2072XA, T2073XA, T2074XA, T2075XA, T2076XA, T2077XA, T2079XA; T2130XA, T2131XA, T2132XA, T2133XA, T2134XA, T2135XA, T2136XA, T2137XA, T2139XA, T2170XA, T2171XA, T2172XA, T2173XA, T2174XA, T2175XA, T2176XA, T2177XA, T2179XA; T2230XA, T22311A, T22312A, T22319A, T22321A, T22322A, T22329A, T22331A, T22332A, T22339A, T22341A, T22342A, T22349A, T22351A, T22352A, T22359A, T22361A, T22362A, T22369A, T22391A, T22392A, T22399A, T2270XA, T22711A, T22712A, T22719A, T22721A, T22722A, T22729A, T22731A, T22732A, T22739A, T22741A, T22742A, T22749A, T22751A, T22752A, T22759A, T22761A, T22762A, T22769A, T22791A, T22792A, T22799A; T23301A, T23302A,

T23309A, T23311A, T23312A, T23319A, T23321A,
T23322A, T23329A, T23331A, T23332A, T23339A,
T23341A, T23342A, T23349A, T23351A, T23352A,
T23359A, T23361A, T23362A, T23369A, T23371A,
T23372A, T23379A, T23391A, T23392A, T23399A,
T23701A, T23702A, T23709A, T23711A, T23712A,
T23719A, T23721A, T23722A, T23729A, T23731A,
T23732A, T23739A, T23741A, T23742A, T23749A,
T23751A, T23752A, T23759A, T23761A, T23762A,
T23769A, T23771A, T23772A, T23779A, T23791A,
T23792A, T23799A; T24301A, T24302A, T24309A,
T24311A, T24312A, T24319A, T24321A, T24322A,
T24329A, T24331A, T24332A, T24339A, T24391A,
T24392A, T24399A, T24701A, T24702A, T24709A,
T24711A, T24712A, T24719A, T24721A, T24722A,
T24729A, T24731A, T24732A, T24739A, T24791A,
T24792A, T24799A; T25311A, T25312A, T25319A,
T25321A, T25322A, T25329A, T25331A, T25332A,
T25339A, T25391A, T25392A, T25399A, T25711A,
T25712A, T25719A, T25721A, T25722A, T25729A,
T25731A, T25732A, T25739A, T25791A, T25792A,
T25799A; T2600XA, T2601XA, T2602XA, T2610XA,
T2611XA, T2612XA, T2620XA, T2621XA, T2622XA,
T2630XA, T2631XA, T2632XA, T2640XA, T2641XA,
T2642XA, T2650XA, T2651XA, T2652XA, T2660XA,
T2661XA, T2662XA, T2670XA, T2671XA, T2672XA,
T2680XA, T2681XA, T2682XA, T2690XA, T2691XA,
T2692XA; T270XXA, T271XXA, T272XXA, T273XXA,
T274XXA, T275XXA, T276XXA, T277XXA; T281XXA,
T282XXA, T283XXA, T2840XA, T28411A, T28412A,
T28419A, T2849XA, T285XXA, T286XXA, T287XXA,
T288XXA, T28911A, T28912A, T28919A, T2899XA;
T300; T304; T310, T320; T3110, T3210; T3111, T3211;
T3120, T3220; T3121, T3221; T3122, T3222; T3130,
T3230; T3131, T3231; T3132, T3232; T3133, T3233;
T3140, T3240; T3141, T3142, T3143, T3243; T3144,
T3244; T3150, T3250; T3152, T3252; T3151, T3251;
T3154, T3254; T3153, T3253; T3155, T3255; T3160,
T3260; T3161, T3261; T3162, T3262; T3163, T3263;
T3164, T3264; T3165, T3265; T3166, T3266; T3170,
T3270; T3171, T3271; T3172, T3272; T3173, T3273;
T3174, T3274; T3175, T3275; T3176, T3276; T3177,
T3277; T3180, T3280; T3181, T3281; T3182, T3282;
T3183, T3283; T3184, T3284; T3185, T3285; T3186,
T3286; T3187, T3287; T3188, T3288; T3190, T3290;
T3191, T3291; T3192, T3292; T3191, T3293; T3194,
T3294; T3196, T3296; T3195, T3295; T3197, T3297;
T3198, T3298; T3199, T3299.

B. Appeal Procedures. Special reimbursement consideration will be given to cases that are atypical in nature due to case acuity causing unusually high charges when compared to the provider's usual case mix. This appeal process applies to workers' compensation cases paid under the per diem reimbursement formula limiting the payment amount to the lesser of per diem or covered billed charges.

1. - 7.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 41:981 (May 2015), LR 42:

Chapter 27. Utilization Review Procedures

§2701. Statement of Policy

A. - B.3. ...

4. Statements of charges shall be made in accordance with standard coding methodology as established by these rules, ICD-10-CM, ICD-10-PCS, HCPCS, and CPT-4 coding manuals. Unbundling or fragmenting charges, duplicating or over-itemizing coding, or engaging in any other practice for the purpose of inflating bills or reimbursement is strictly prohibited. Services must be coded and charged in the manner guaranteeing the lowest charge applicable. Knowingly and willfully misrepresenting services provided to workers' compensation claimants is strictly prohibited.

5. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 38:1030 (April 2012), LR 42:

§2705. Pre-Admission Certification

Editor's Note: The telephone number for the Office of Workers' Compensation has been changed to (225) 342-9836.

A. - B. ...

C. Louisiana Office of Worker's Compensation Administration shall support both ICD-9 and ICD-10 coding formats for a period of time after the compliance date. Claims shall be accepted with ICD-9 codes for service dates or discharge dates prior to the compliance date for pre-authorized services and/or treatment or timely filing requirements. If an authorization is requested on or before the compliance date, and the date of service is on or after October 1, 2015, healthcare professionals must submit an ICD-10 code. If an authorization is requested after the compliance date, the ICD-10 code will be required. The pre-admission certification process follows the sequence below.

1. - 1.i. ...

j. admitting diagnosis (to include ICD-10-CM codes);*

k. ...

l. major procedures and related CPT/ICD-10-PCS codes;*

m. - v. ...

*The provider will provide descriptive/narrative information and the reviewer, representing the carrier/self-insured employer, will provide the ICD-10-CM, ICD-10-PCS and/or CPT-4 codes.

D. - E.2.b. ...

3. Evaluation

a. ...

b. Carrier/Self-Insured Employer Data Reporting. Carrier/self-insured employer will be required to collect the following data according to the Office of Workers' Compensation Administration requirements.

Information	Positions	Type
ICD-10-CM	5/7	Numeric
Provider Name	30	Alpha
Provider Street Address	30	Alpha Numeric
Parish Code for Provider of Service (Use Standard FIPS code, see Exhibit 5)	3	Numeric
Place of Treatment	1	Alpha Numeric
Type of Facility*	6	Numeric
Type of Service: Medical vs. Surgical	1	Alpha Numeric
Claimant Name	30	Alpha
Claimant Social Security Number	9	Numeric
Length of Stay	4	Numeric
*See "Type Facility Codes" in Exhibit 6.		

c. - e. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), amended LR 42:

§2707. Admission and Continued Stay Review

Editor's Note: The telephone number for the Office of Workers' Compensation has been changed to (225) 342-7555.

A. - E.2.b. ...

3. Evaluation

a. ...

b. Carrier/Self-Insured Employer Data Reporting. Carrier/self-insured employer will be required to collect data according to the Office of Workers' Compensation Administration requirements:

Information	Positions	Type
ICD-10-CM	5/7	Numeric
Provider Name	30	Alpha
Provider Street Address	30	Alpha Numeric
Parish Code for Provider of Service (Use Standard FIPS code, see Exhibit 5)	3	Numeric
Place of Treatment	1	Alpha Numeric
Type of Facility*	6	Numeric
Type of Service: Medical vs. Surgical	1	Alpha Numeric
Claimant Name	30	Alpha
Claimant Social Security Number	9	Numeric
Length of Stay	4	Numeric
* See "Type Facility Codes" in Exhibit 6.		

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:

§2718. Utilization Review Forms

A. LWC Form 1010—Request of Authorization/
Carrier or Self Insured Employer Response

LWC FORM 1010 - REQUEST OF AUTHORIZATION/CARRIER OR SELF INSURED EMPLOYER RESPONSE				
PLEASE PRINT OR TYPE				
SECTION 1. IDENTIFYING INFORMATION - To Be Filled Out By Health Care Provider				
P A T I E N T	Last Name: First: Middle:		Street Address, City, State, Zip:	
	Last 4 Digits of Social Security Number:		Date of Birth:	
	Employers Name:		Street Address, City, State, Zip:	
C A R R I E R	Name:		Adjuster:	
	Street Address, City, State Zip:		Claim Number (if known):	
	Email Address:		Phone Number:	
SECTION 2. REQUEST FOR AUTHORIZATION - To Be Filled Out By Health Care Provider				
P R O V I D E R	Requesting Health Care Provider		Phone Number:	
	Street Address, City, State Zip:		Fax Number:	
	Diagnosis:		Email:	
	CPT/DRG Code:		ICD/DSM Code:	
	Requested Treatment or Testing (Attach Supplement If Needed):			
Reason for Treatment or Testing (Attach Supplement If Needed):				
INFORMATION REQUIRED BY RULE TO BE INCLUDED WITH REQUEST FOR AUTHORIZATION - To Be Filled Out By Health Care Provider				
(Following is the required minimum information for Request of Authorization (LAC 40:2715 (C))				
P R O V I D E R	<input type="checkbox"/>	History provided to the level of condition and as provided by Medical Treatment Schedule		
	<input type="checkbox"/>	Physical Findings/Clinical Tests		
	<input type="checkbox"/>	Documented functional improvements from prior treatment		
	<input type="checkbox"/>	Test/imaging results		
	<input type="checkbox"/>	Treatment Plan including services being requested along with the frequency and duration		
I hereby certify that this completed form and above required information was		<input type="checkbox"/> Faxed	to the Carrier/Self Insured Employer on this the	
		<input type="checkbox"/> Emailed	_____ day of _____, _____	
			(day) (month) (year)	
Signature of Health Care Provider:			Printed Name:	
SECTION 3. RESPONSE OF CARRIER/SELF INSURED EMPLOYER FOR AUTHORIZATION				
(Check appropriate box below and return to requesting Health Care Provider, Claimant and Claimant Attorney as provided by rule)				
C A R R I E R	<input type="checkbox"/> The requested Treatment or Testing is approved			
	<input type="checkbox"/> The requested Treatment or Testing is approved with modifications (Attach summary of reasons and explanation of any modifications)			
	<input type="checkbox"/> The requested Treatment or Testing is denied because			
	<input type="checkbox"/>	Not in accordance with Medical Treatment Schedule or R.S.23:1203.1(D) (Attach summary of reasons)		
	<input type="checkbox"/>	The request, or a portion thereof, is not related to the on-the-job injury		
	<input type="checkbox"/>	The claim is being denied as non-compensable		
<input type="checkbox"/>	Other (Attach brief explanation)			
I hereby certify that this response of Carrier/Self Insured Employer for Authorization was		<input type="checkbox"/> Faxed	to the Health Care Provider (and to the Attorney of	
		<input type="checkbox"/> Emailed	Claimant if one exists, if denied or approved with	
			modification) on this the	
			_____ day of _____, _____	
			(day) (month) (year)	
Signature of Carrier/Self Insured Employer:			Printed Name:	

CARRIER	<input type="checkbox"/> The prior denied or approved with modification request is now approved		
	I hereby certify that this response of Carrier/Self Insured Employer for Authorization was	<input type="checkbox"/> Faxed	to the Health Care Provider and Attorney of Claimant if one exists on this the _____ day of _____, _____
		<input type="checkbox"/> Emailed	(day) (month) (year)
Signature of Carrier/Self Insured Employer:		Printed Name:	

SECTION 4. FIRST REQUEST
(Form 1010A is required to be filled out by Carrier/Self Insured Employer and Health Care Provider)

CARRIER	<input type="checkbox"/> The requested Treatment or Testing is delayed because minimum information required by rule was not provided		
	I hereby certify that this First Request and accompanying Form 1010A was	<input type="checkbox"/> Faxed	to the Health Care Provider on this the _____ day of _____, _____
		<input type="checkbox"/> Emailed	(day) (month) (year)
Signature of Carrier/Self Insured Employer:			

PROVIDER	I hereby certify that a response to the First Request and accompanying Form 1010A was	<input type="checkbox"/> Faxed	to the Carrier/Self Insured Employer on this the _____ day of _____, _____
		<input type="checkbox"/> Emailed	(day) (month) (year)
	Signature of Health Care Provider:		Printed Name:

SECTION 5. SUSPENSION OF PRIOR AUTHORIZATION DUE TO LACK OF INFORMATION

CARRIER	Suspension of Prior Authorization Process due to Lack of Information		
	<input type="checkbox"/> The requested Treatment or Testing is delayed due to a Suspension of Prior Authorization Due to Lack of Information		
	I hereby certify that this Suspension of Prior Authorization was	<input type="checkbox"/> Faxed	to the Health Care Provider on this the _____ day of _____, _____
	<input type="checkbox"/> Emailed	(day) (month) (year)	
Signature of Carrier/Self Insured Employer:		Printed Name:	

PROVIDER	Appeal of Suspension to Medical Services Section by Health Care Provider		
	I hereby certify that this form and all information previously submitted to Carrier/Self Insured Employer was faxed to OWCA Medical Services (Fax Number: 225-342-9836) this _____ day of _____, _____.		
	I hereby certify that this Appeal of Suspension of Prior Authorization was	<input type="checkbox"/> Faxed	to the Carrier/Self Insured Employer on this the _____ day of _____, _____
	<input type="checkbox"/> Emailed	(day) (month) (year)	
Signature of Health Care Provider:		Printed Name:	

SECTION 6. DETERMINATION OF MEDICAL SERVICES SECTION

OWCA	<input type="checkbox"/> The required information of LAC40:2715(C) was <i>not</i> provided		
	<input type="checkbox"/> The required information of LAC40:2715(C) was provided		
	I hereby certify that a written determination was	<input type="checkbox"/> Faxed	to the Health Care Provider & Carrier/Self Insured Employer on this the _____ day of _____, _____
	<input type="checkbox"/> Emailed	(day) (month) (year)	
Signature:		Printed Name:	

SECTION 7. HEALTH CARE PROVIDER RESPONSE TO MEDICAL SERVICES DETERMINATION

PROVIDER	I hereby certify that additional information, pursuant to the determination of Medical Services Section, was	<input type="checkbox"/> Faxed	to the Carrier/Self Insured Employer on this the _____ day of _____, _____
		<input type="checkbox"/> Emailed	(day) (month) (year)
	Signature of Health Care Provider:		Printed Name:

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation Administration, LR 38:1037 (April 2012), amended LR 38:3255 (December 2012), LR 42:

Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

§5101. Statement of Policy

A. - B.3. ...

4. Statements of charges shall be made in accordance with standard coding methodology as established by these rules, ICD-10-CM, ICD-10-PCS, HCPCS, CPT-4, CDT-1, NDAS coding manuals. Unbundling or fragmenting charges, duplicating or over-itemizing coding, or engaging in any other practice for the purpose of inflating bills or reimbursement is strictly prohibited. Services must be coded and charged in the manner guaranteeing the lowest charge applicable. Knowingly and willfully misrepresenting services provided to workers' compensation claimants is strictly prohibited.

5. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 40:375 (February 2014), LR 42:

§5113. Coding System

A. Diagnosis Coding. *The International Classification of Diseases, Tenth Revision* (ICD-10-CM) is the basis of diagnosis coding. These are the disease codes in the international classification, tenth revision, clinical modifications published by the U.S. Department of Health and Human Resources.

B. Helpful Hints for Diagnosis Coding

1. - 2. ...

3. All digits of the appropriate ICD-10-CM code(s) should be reported.

4. The date of accident should always be reported if the ICD-10-CM code is for an accident diagnosis.

5. It is important to provide a complete description of the diagnosis if an appropriate ICD-10-CM code cannot be located.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:

The following Sections are to be used for Chapter 51 only.

Chapter 53. Dental Care Services, Reimbursement Schedule and Billing Instructions

Editor's Note: Other Sections applying to this Chapter can be found in Chapter 51.

§5315. Coding System

A. - A.6. ...

B. CDT-1 Coding

1. - 2. ...

3. Procedures denoted "BR" (by report) in the fee schedule should be justified by the submission of a report.

4. All fees should include the price of materials supplied and the performance of the service. Under some circumstances, however, fee adjustments are necessary and values of listed codes may be modified by use of the appropriate "modifier code number." Modifiers available.

22	Unusual Services—Report required.
50	Bilateral or Multiple Field Procedures—Multiple procedures in separate anatomical field. The following values may be used: 100 percent first major procedure. 70 percent each additional field procedure.
51	Multiple Procedures—Multiple procedure in the same anatomical field. The following values may be used: Single Field 100 percent for first major procedure 50 percent of listed value for second 25 percent of listed value for third 10 percent of listed value for fourth 5 percent of listed value for fifth BR for any procedure beyond 5
52	Reduced Values—Reduced or estimated value for procedure because of common practice or at the dentist's election.
53	Primary Emergency Services—Procedure is carried out by a dentist who will not be providing the follow-up care. The value may be 70 percent of the listed value.
54	Surgical Procedure Only—Used to identify the dentist performing surgery. The value may be 70 percent of the listed value.
55	Follow-Up Care Only—Identifies the dentist providing follow-up care. The value may be 30 percent of the listed value.
56	Pre-Operative Care Only—Identifies the dentist performing care up until surgery when another dentist takes over. Value may be 30 percent of the listed value.
75	Services Rendered by More than One Dentist—When the condition requires more than one dentist, each dentist may be allowed 80 percent of the value for that procedure
99	Multiple Modifiers—By Report
The use of modifiers does not imply or guarantee that a provider will receive reimbursement as billed. Reimbursement for modified services or procedures must be based on documentation of medical necessity and must be determined on a case-by-case basis.	

5. Fees for surgical procedures should be global in nature and include the surgery, any local anesthesia and normal follow-up care. Fees for general anesthesia are extra as are complications or additional services and should be coded separately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:1163 (September 1993), amended LR 20:1298 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 40:379 (February 2014), LR 42:

§5399. Schedule for Maximum Allowances for Dental Services

CDT Code	Description	Maximum Reimbursement
D0120	Periodic oral evaluation—established patient	50
D0140	Limited oral evaluation—problem focused	75
D0145	Oral evaluation—patient under 3 yrs and counseling with primary caregiver	69
D0150	Comprehensive oral evaluation—new or established patient	88
D0160	Detailed and Extensive oral evaluation—problem focused	160
D0170	Re-evaluation—limited, problem focused (established patient; not post-operative visit)	70
D0180	Comprehensive periodontal evaluation—new or established patient	95
D0210	Intraoral—complete series (including bitewings)	128
D0220	Intraoral—periapical first film	28
D0230	Intraoral—periapical each additional film	24
D0240	Intraoral—occlusal films	42
D0250	Intraoral—first film	67
D0260	Extraoral—first film	55
D0270	Bitewing—single film	28
D0272	Bitewing—two films	45
D0273	Bitewing—three films	55
D0274	Bitewing—four films	65
D0277	Vertical bitewings—7 to 8 films	97
D0290	Posterior-anterior or lateral skull and facial bone survey film	135
D0310	Sialography	389
D0320	Temporomandibular joint films, including injection	592
D0321	Other temporomandibular joint films	210
D0322	Tomographic survey	530
D0330	Panoramic film	110
D0340	Cephalometric film	125
D0350	Oral/facial photographic images	71
D0360	Cone beam CT—craniofacial data capture	589
D0362	Cone beam CT—two-dimensional image reconstruction using existing data, includes multiple images	359
D0363	Cone beam CT—three-dimensional image reconstruction using existing data, includes multiple images	398
D0415	Collection of microorganisms for culture and sensitivity	186
D0416	Viral culture	168
D0417	Collection and preparation of saliva sample for laboratory diagnostic testing	167
D0418	Analysis of saliva sample	150
D0421	Genetic test for susceptibility to oral diseases	136
D0425	Caries susceptibility tests	95
D0431	Adjunctive pre-diagnostic test that aids in detection of mucosal abnormalities including premalignant and malignant lesions, not to include cytology or biopsy procedures	71
D0460	Pulp vitality tests	55
D0470	Diagnostic casts	109
D0472	Accession of tissue, gross examination, preparation and transmission of written report	118
D0473	Accession of tissue, gross examination and microscopic examination, preparation and transmission of written report	165

CDT Code	Description	Maximum Reimbursement
D0474	Accession of tissue, gross examination and microscopic examination including assessment of surgical margins for presence of disease, preparation and transmission of written report	184
D0480	Accession of exfoliative cytologic smears, microscopic examination, preparation and transmission of written report	176
D0486	Accession of transepithelial cytologic sample, microscopic examination, preparation and transmission of written report	150
D0475	Decalcification procedure	195
D0476	Special stains for microorganisms	289
D0477	Special stains not for microorganisms	296
D0478	Immunohistochemical stains	175
D0479	Tissue in-situ hybridization, including interpretation	231
D0481	Electron microscopy—diagnostic	188
D0482	Direct immunofluorescence	105
D0483	Indirect immunofluorescence	123
D0484	Consultation on slides prepared elsewhere	168
D0485	Consultation, including preparation of slides from biopsy material supplied by referring source	180
D0502	Other oral pathology procedures	170
D0999	Unspecified diagnostic procedure	BR
D1110	Prophylaxis—adult	90
D1120	Prophylaxis—child	66
D1203	Topical application of fluoride—child	37
D1204	Topical application of fluoride—adult	37
D1206	Topical fluoride varnish; therapeutic application for moderate to high caries risk patients	45
D1310	Nutritional counseling for control of dental disease	70
D1320	Tobacco counseling for the control and prevention of oral disease	82
D1330	Oral hygiene instructions	55
D1351	Sealant—per tooth	54
D1352	Preventative resin restoration in a moderate to high caries risk patient—permanent tooth	BR
D1510	Space maintainer—fixed—unilateral	317
D1515	Space maintainer—fixed—bilateral	432
D1520	Space maintainer—removable—unilateral	390
D1525	Space maintainer—removable—bilateral	495
D1550	Re-cementation of space maintainer	83
D1555	Removal of fixed space maintainer	79
D2140	Amalgam—one surface, primary or permanent	138
D2150	Amalgam—two surfaces, primary or permanent	176
D2160	Amalgam—three surfaces, primary or permanent	214
D2161	Amalgam—four surfaces, primary or permanent	251
D2330	Resin-based composite—one surface, anterior	160
D2331	Resin-based composite—two surfaces, anterior	200
D2332	Resin-based composite—three surfaces, anterior	249
D2335	Resin-based composite—four or more surfaces or involving incisal angle (anterior)	312
D2390	Resin-based composite crown—anterior	450
D2391	Resin-based composite—one surface, posterior	177
D2392	Resin-based composite—two surfaces, posterior	230
D2393	Resin-based composite—three surfaces, posterior	284
D2394	Resin-based composite—four or more surfaces posterior	341
D2410	Gold foil—one surface	635
D2420	Gold foil—two surfaces	692
D2430	Gold foil—three surfaces	806
D2510	Inlay—metallic—one surface	833
D2520	Inlay—metallic—two surfaces	892
D2530	Inlay—metallic—three or more surfaces	965
D2542	Onlay—metallic—two surfaces	990
D2543	Onlay—metallic—three surfaces	1015
D2544	Onlay—metallic—four or more surfaces	1050
D2610	Inlay—porcelain/ceramic—one surface	907
D2620	Inlay—porcelain/ceramic—two surfaces	950

CDT Code	Description	Maximum Reimbursement
D2630	Inlay—porcelain/ceramic—three or more surfaces	995
D2642	Onlay—porcelain/ceramic—two surfaces	1008
D2643	Onlay—porcelain/ceramic—three surfaces	1049
D2644	Onlay—porcelain/ceramic—four or more surfaces	1094
D2650	Inlay—resin based—one surface	869
D2651	Inlay—resin based—two surfaces	904
D2652	Inlay—resin based—three or more surfaces	940
D2662	Onlay—resin based—two surfaces	944
D2663	Onlay—resin based—three surfaces	983
D2664	Onlay—resin based—four or more surfaces	1025
D2710	Crown—resin-based composite (indirect)	940
D2712	Crown—3/4 resin-based composite (indirect)	999
D2720	Crown—resin with high noble metal	1061
D2721	Crown—resin with predominantly base metal	998
D2722	Crown—resin with noble metal	1015
D2740	Crown—porcelain/ceramic substrate	1132
D2750	Crown—porcelain fused to high noble metal	1100
D2571	Crown—porcelain fused predominantly base metal	1029
D2752	Crown—porcelain fused to noble metal	1050
D2780	Crown—3/4 cast high noble metal	1063
D2781	Crown—3/4 cast predominantly base metal	1027
D2782	Crown—3/4 cast noble metal	1030
D2783	Crown—3/4 porcelain /ceramic	1100
D2790	Crown—full cast high noble metal	1100
D2791	Crown—full cast predominantly base metal	997
D2792	Crown—full cast noble metal	1045
D2794	Crown—titanium	1076
D2799	Provisional crown	437
D2910	Recement inlay, only, or partial coverage restoration	108
D2915	Recement cast or prefabricated post and core	114
D2920	Recement crown	109
D2930	Prefabricated stainless steel crown—primary tooth	271
D2931	Prefabricated stainless steel crown—permanent tooth	325
D2932	Prefabricated resin crown	351
D2933	Prefabricated stainless steel crown with resin window	363
D2934	Prefabricated esthetic coated stainless steel crown—primary tooth	372
D2940	Protective restoration	120
D2950	Core buildup, including any pins	271
D2951	Pin retention—per tooth, in addition to restoration	75
D2952	Post and core in addition to crown, indirectly fabricated	422
D2953	Each additional indirectly fabricated post—same tooth	312
D2954	Prefabricated post and core in addition to crown	335
D2955	Post removal (not in conjunction with endodontic therapy)	291
D2957	Each additional prefabricated post—same tooth	200
D2960	Labial veneer (resin laminate)—chairside	658
D2961	Labial veneer (resin laminate)—laboratory	975
D2962	Labial veneer (porcelain laminate)—laboratory	1150
D2970	Temporary crown (fractured tooth)	375
D2971	Additional procedures to construct new crown under existing partial denture framework	169
D2975	Coping	597
D2980	Crown repair	293
D2999	Unspecified restorative procedure,	BR
D3110	Pulp cap—direct (excluding final restoration)	83
D3120	Pulp cap—indirect (excluding final restoration)	84
D3220	Therapeutic pulpotomy (excluding final restoration)—removal of pulp coronal to the dentinocemental junction and application of medicament	198

CDT Code	Description	Maximum Reimbursement
D3221	Pulpal debridement, primary and permanent teeth	234
D3222	Partial pulpotomy for apexogenesis—permanent tooth with incomplete root development	298
D3230	Pulpal therapy (resorbable filling)—anterior, primary tooth (excluding final restoration)	275
D3240	Pulpal therapy (resorbable filling)—posterior, primary tooth (excluding final restoration)	312
D3310	Endodontic therapy, anterior tooth (excluding final restoration)	725
D3320	Endodontic therapy, bicuspid tooth (excluding final restoration)	842
D3330	Endodontic therapy, molar tooth (excluding final restoration)	1009
D3331	Treatment of root canal obstruction: non-surgical access	611
D3332	Incomplete endodontic therapy; inoperable, unrestorable or fractured tooth	444
D3333	Internal root repair of perforation defects	350
D3346	Retreatment of previous root canal therapy— anterior	850
D3347	Retreatment of previous root canal therapy— bicuspid	970
D3348	Retreatment of previous root canal therapy— molar	1132
D3351	Apexification/recalcification/pulpal regeneration—initial visit (apical closure/calci fic repair of perforations, root resorption, pulp space disinfection, etc.)	362
D3352	Apexification/recalcification/pulpal regeneration—interim medication replacement (apical closure/calci fic repair of perforations, root resorption, pulp space disinfection, etc.)	258
D3353	Apexification/recalcification/pulpal regeneration—final visit (includes completed root canal therapy—apical closure/calci fic repair of perforations, root resorption, pulp space disinfection, etc.)	542
D3354	Pupal regeneration—(completion of regenerative treatment in an immature permanent tooth with a necrotic pulp); does not include final restoration	BR
D3410	Apicoectomy/periradicular surgery— anterior	700
D3421	Apicoectomy/periradicular surgery— bicuspid (first root)	780
D3425	Apicoectomy/periradicular surgery— molar (first root)	895
D3426	Apicoectomy/periradicular surgery— (each additional root)	400
D3430	Retrograde filling—per root	280
D3450	Root amputation—per root	483
D3460	Endodontic endosseous implant	1524
D3470	Intentional reimplantation (including necessary splinting)	796
D3910	Surgical procedure for isolation of tooth with rubber dam	235
D3920	Hemisection (including any root removal), not including root canal therapy	474
D3950	Canal preparation and fitting of preformed dowel or post	258
D3999	Unspecified endodontic procedure,	BR
D4210	Gingivectomy or gingivoplasty—four or more contiguous teeth or tooth bounded spaces per quadrant	626
D4211	Gingivectomy or gingivoplasty—one to three contiguous teeth or tooth bounded spaces per quadrant	290
D4230	Anatomical crown exposure—four or more contiguous teeth per quadrant	698
D4231	Anatomical crown exposure—one to three contiguous teeth per quadrant	596
D4240	Gingival flap procedure, including root planing— one to three contiguous teeth or tooth bounded spaces per quadrant	738

CDT Code	Description	Maximum Reimbursement
D4241	Gingival flap procedure, including root planing—four or more contiguous teeth or tooth bounded spaces per quadrant	635
D4245	Apically positioned flap	819
D4249	Clinical crown lengthening—hard tissue	751
D4260	Osseous surgery (including flap entry and closure)—four or more contiguous teeth or tooth bounded spaces per quadrant	1074
D4261	Osseous surgery (including flap entry and closure)—one to three contiguous teeth or tooth bounded spaces per quadrant	890
D4263	Bone replacement graft—each additional site in quadrant	727
D4264	Bone replacement graft—first site in quadrant	555
D4265	Biologic materials to aid in soft and osseous tissue regeneration	550
D4266	Guided tissue regeneration—resorbable barrier, per site	831
D4267	Guided tissue regeneration—nonresorbable barrier, per site (includes membrane removal)	984
D4268	Surgical revision procedure, per tooth	810
D4270	Pedical soft tissue graft procedure	826
D4271	Free soft tissue graft procedure (including donor site surgery)	895
D4273	Subepithelial connective tissue graft procedures, per tooth	1088
D4274	Distal or proximal wedge procedure (when not performed in conjunction with surgical procedures in the same anatomical area)	670
D4275	Soft tissue allograft	969
D4276	Combined connective tissue and double pedicle graft, per tooth	1085
D4320	Provisional splinting—intracoronar	508
D4321	Provisional splinting—extracoronar	466
D4341	Periodontal scaling and root planing—four or more teeth per quadrant	251
D4342	Periodontal scaling and root planing—one to three teeth per quadrant	185
D4355	Full mouth debridement to enable comprehensive evaluation and diagnosis	183
D4381	Localized delivery of antimicrobial agents via a controlled release vehicle into diseased crevicular tissue, per tooth,	140
D4910	Periodontal maintenance	139
D4920	Unscheduled dressing change (by someone other than treating dentist)	100
D4999	Unspecified periodontal procedure,	BR
D5110	Complete denture—maxillary	1689
D5120	Complete denture—mandibular	1700
D5130	Immediate denture—maxillary	1831
D5140	Immediate denture—mandibular	1849
D5211	Maxillary partial denture—resin base (including any conventional clasps, rests and teeth)	1350
D5212	Mandibular partial denture—resin base (including any conventional clasps, rests and teeth)	1350
D5213	Maxillary partial denture—cast base framework with resin denture bases (including any conventional clasps, rests and teeth)	1781
D5214	Mandibular partial denture—cast base framework with resin denture bases (including any conventional clasps, rests and teeth)	1780
D5225	Maxillary partial denture—flexible base (including any clasps, rests and teeth)	1566
D5226	Mandibular partial denture—flexible base (including any clasps, rests and teeth)	1552
D5281	Removable unilateral partial denture—one piece cast metal (including clasps and teeth)	995
D5410	Adjust complete denture—maxillary	89
D5411	Adjust complete denture—mandibular	88
D5421	Adjust partial denture—maxillary	88
D5422	Adjust partial denture—mandibular	88

CDT Code	Description	Maximum Reimbursement
D5510	RepaBROken complete denture base	208
D5520	Replace missing or broken teeth—complete denture (each tooth)	186
D5610	Repair resin denture base	202
D5620	Repair cast framework	291
D5630	Repair or replace broken clasp	262
D5640	Replace broken teeth—per tooth	184
D5650	Add tooth to existing partial denture	224
D5660	Add clasp to existing partial denture	268
D5670	Replace all teeth and acrylic on cast metal framework (maxillary)	735
D5671	Replace all teeth and acrylic on cast metal framework (mandibular)	750
D5710	Rebase complete maxillary denture	591
D5711	Rebase complete mandibular denture	585
D5720	Rebase maxillary partial denture	563
D5721	Rebase mandibular partial denture	562
D5730	Reline complete maxillary denture (chairside)	372
D5731	Reline complete mandibular denture (chairside)	369
D5740	Reline maxillary partial denture (chairside)	364
D5741	Reline mandibular partial denture (chairside)	368
D5750	Reline complete maxillary denture (laboratory)	475
D5751	Reline complete mandibular denture (laboratory)	475
D5760	Reline maxillary partial denture (laboratory)	469
D5761	Reline mandibular partial denture (laboratory)	472
D5810	Interim complete denture (maxillary)	848
D5811	Interim complete denture (mandibular)	853
D5820	Interim partial denture (maxillary)	690
D5821	Interim partial denture (mandibular)	690
D5850	Tissue conditioning, maxillary	204
D5851	Tissue conditioning, mandibular	205
D5860	Overdenture—complete	2121
D5861	Overdenture—partial	2048
D5862	Precision attachment	700
D5867	Replacement of replaceable part of semi-precision or precision attachment (male or female component)	385
D5875	Modification of removable prosthesis following implant surgery	393
D5899	Unspecified removable prosthodontic procedure	BR
D5911	Facial moulage (sectional)	BR
D5912	Facial moulage (complete)	BR
D5913	Nasal prosthesis	BR
D5914	Auricular prosthesis	BR
D5915	Orbital prosthesis	BR
D5916	Ocular prosthesis	BR
D5919	Facial prosthesis	BR
D5923	Ocular prosthesis, interim	BR
D5924	Cranial prosthesis	BR
D5925	Facial augmentation implant prosthesis	BR
D5926	Nasal prosthesis, replacement	BR
D5957	Auricular prosthesis, replacement	BR
D5958	Orbital prosthesis, replacement	BR
D5929	Facial prosthesis, replacement	BR
D5931	Obturator prosthesis, surgical	BR
D5932	Obturator prosthesis, definitive	BR
D5933	Obturator prosthesis, modification	BR
D5934	Mandibular resection prosthesis with guide flange	BR
D5935	Mandibular resection prosthesis without guide flange	BR
D5936	Obturator prosthesis interim	BR
D5937	Trismus appliance (not for TMD treatment)	746
D5951	Feeding aid	844
D5952	Speech aid prosthesis, pediatric	BR
D5953	Speech aid prosthesis, adult	BR
D5954	Palatal augmentation prosthesis	BR
D5955	Palatal lift prosthesis, definitive	BR
D5958	Palatal lift prosthesis, interim	BR
D5959	Palatal lift prosthesis, modification	BR

CDT Code	Description	Maximum Reimbursement
D5960	Speech aid prosthesis modification	BR
D5982	Surgical stent	450
D5983	Radiation carrier	BR
D5984	Radiation shield	BR
D5985	Radiation cone locator	BR
D5986	Fluoride gel carrier	210
D5987	Commissure splint	BR
D5988	Surgical splint	770
D5991	Topical medicament carrier	226
D5992	Adjust maxillofacial prosthetic appliance	BR
D5993	Maintenance and cleaning of maxillofacial prosthesis (extra or intraoral) other than required adjustments	BR
D5999	Unspecified maxillofacial prosthesis	BR
D6190	Radiographic/surgical implant index	375
D6010	Surgical placement of implant body: endosteal implant	2001
D6012	Surgical placement of interim implant body for transitional prosthesis: endosteal implant	1577
D6040	Surgical placement: eposteal implant	8380
D6050	Surgical placement: transosteal implant	5807
D6100	Implant removal	760
D6055	Connecting bar—implant supported abutment support	2900
D6506	Prefabricated abutment—includes placement	789
D6057	Custom abutment—includes placement	952
D6053	Implant/abutment supported removable denture for completely edentulous arch	2790
D6054	Implant/abutment supported removable denture for partially edentulous arch	2751
D6078	Implant/abutment supported fixed denture for completely edentulous arch	5335
D6079	Implant/abutment supported fixed denture for partially edentulous arch	3800
D6058	Abutment supported porcelain/ceramic crown	1479
D6059	Abutment supported porcelain/ceramic crown (high noble metal)	1479
D6060	Abutment supported porcelain fused to metal crown (predominately base metal)	1361
D6061	Abutment supported porcelain fused to metal crown (noble metal)	1382
D6062	Abutment supported cast metal crown (high noble metal)	1432
D6063	Abutment supported cast metal crown (predominantly base metal)	1317
D6064	Abutment supported cast metal crown (noble metal)	1366
D6094	Abutment supported crown—(titanium)	1376
D6065	Implant supported porcelain/ceramic crown	1543
D6066	Implant supported porcelain fused to metal crown (titanium, titanium alloy, high noble metal)	1545
D6067	Implant supported metal crown (titanium, titanium alloy, high noble metal)	1575
D6068	Abutment supported retainer for porcelain/ceramic FPD	1469
D6069	Abutment supported retainer for porcelain fused to metal FPD (high noble metal)	1474
D6070	Abutment supported retainer for porcelain fused to metal FPD (predominantly base metal)	1384
D6071	Abutment supported retainer for porcelain fused to metal FPD (noble metal)	1384
D6072	Abutment supported retainer for cast metal FPD (high noble metal)	1451
D6073	Abutment supported retainer for porcelain cast metal FPD (predominantly base metal)	1384
D6074	Abutment supported retainer for cast metal FPD (noble metal)	1384
D6194	Abutment supported retainer crown for FPD (titanium)	1392
D6075	Implant supported retainer for ceramic FPD	1529

CDT Code	Description	Maximum Reimbursement
D6076	Implant supported retainer for porcelain fused to metal FPD (titanium, titanium alloy or high noble metal)	1538
D6077	Implant supported retainer for cast metal FPD (titanium, titanium alloy or high noble metal)	1587
D6080	Implant maintenance procedures, including removal of prosthesis, cleansing of prosthesis and abutments and reinsertion of prosthesis	297
D6090	Repair implant supported prosthesis	742
D6095	Repair implant abutment	731
D6091	Replacement of semi-precious or precision attachment (male or female component) of implant/abutment supported prosthesis, per attachment	631
D6092	Recement implant/abutment supported crown	160
D6093	Recement implant/abutment supported fixed partial denture	182
D6199	Unspecified implant procedure	BR
D6205	Pontic—indirect resin based composite	988
D6210	Pontic—cast high noble metal	1089
D6211	Pontic—cast predominately base metal	998
D6212	Pontic—cast noble metal	1041
D6214	Pontic—titanium	1100
D6240	Pontic—porcelain fused to high noble metal	1100
D6241	Pontic—porcelain fused to predominantly base metal	1024
D6242	Pontic—porcelain fused to noble metal	1051
D6245	Pontic—porcelain/ceramic	1140
D6250	Pontic—resin with high noble metal	1058
D6251	Pontic—resin with predominantly base metal	1049
D6252	Pontic—resin with noble metal	1040
D6253	Provisional pontic	769
D6254	Interim pontic	BR
D6545	Retainer—cast metal for resin bonded fixed prosthesis	852
D6548	Retainer—porcelain/ceramic for resin bonded fixed prosthesis	950
D6600	Inlay—porcelain/ceramic, two surfaces	1000
D6601	Inlay—porcelain/ceramic, three or more surfaces	1052
D6602	Inlay—cast high noble metal, two surfaces	1015
D6603	Inlay—cast high noble metal, three or more surfaces	1050
D6604	Inlay—predominantly base metal, two surfaces	994
D6605	Inlay—predominantly base metal, three or more surfaces	1046
D6606	Inlay—cast noble metal, two surfaces	998
D6607	Inlay—cast noble metal, three or more surfaces	1050
D6624	Inlay—titanium	1080
D6608	Onlay—porcelain/ceramic, two surfaces	1061
D6609	Onlay—porcelain/ceramic, three or more surfaces	1127
D6610	Onlay—cast high noble metal, two surfaces	1074
D6611	Onlay—cast high noble metal, three or more surfaces	1111
D6612	Onlay—predominantly base metal, two surfaces	1038
D6613	Onlay—predominantly base metal, three or more surfaces	1095
D6614	Onlay—cast noble metal, two surfaces	1050
D6615	Onlay—cast noble metal, three or more surfaces	1102
D6634	Onlay—titanium	1125
D6710	Crown—indirect resin based composite	1025
D6720	Crown—resin with high noble metal	1056
D6721	Crown—resin with predominantly base metal	1032
D6722	Crown—resin with noble metal	1050
D6740	Crown—porcelain/ceramic	1146
D6750	Crown—porcelain fused to high noble metal	1107
D6751	Crown—porcelain fused to predominantly base metal	1010
D6752	Crown—porcelain fused to noble metal	1050
D6780	Crown—3/4 cast high noble metal	1075

CDT Code	Description	Maximum Reimbursement
D6781	Crown—3/4 cast predominantly base metal	1038
D6782	Crown—3/4 cast noble metal	1050
D6783	Crown—3/4 porcelain/ceramic	1100
D6790	Crown—full cast high noble metal	1085
D6791	Crown—full cast predominantly base metal	997
D6792	Crown—full cast noble metal	1040
D6794	Crown—titanium	1059
D6793	Provisional retainer crown	523
D6795	Interim retainer crown	BR
D6920	Connector bar	995
D6930	Recement fixed partial denture	171
D6940	Stress breaker	435
D6950	Precision attachment	650
D6970	Post and core in addition to fixed partial denture retainer, indirectly fabricated	433
D6972	Prefabricated post and core in addition to fixed partial denture retainer	344
D6973	Core build up for retainer, including any pins	275
D6975	Coping—metal	700
D6976	Each additional indirectly fabricated post—same tooth	290
D6977	Each additional prefabricated post—same tooth	204
D6980	Fixed partial denture repair	387
D6985	Pediatric partial denture, fixed	915
D6999	Unspecified fixed prosthodontic procedure	BR
D7111	Extraction, coronal remnants—deciduous tooth	135
D7140	Extraction, erupted tooth or exposed root (elevation and/or forceps removal)	174
D7210	Surgical removal of erupted tooth requiring removal of bone and/or sectioning of tooth, and including elevation of mucoperiosteal flap if indicated	275
D7220	Removal of impacted tooth—soft tissue	315
D7230	Removal of impacted tooth—partially bony	395
D7240	Removal of impacted tooth—completely bony	484
D7241	Removal of impacted tooth—completely bony, with unusual surgical complications	576
D7250	Surgical removal of residual tooth roots (cutting procedure)	304
D7251	Coronectomy—intentional partial tooth removal	BR
D7260	Oroantral fistula closure	1026
D7261	Primary closure of a sinus perforation	757
D7270	Tooth reimplantation and/or stabilization of accidentally evulsed or displaced tooth	561
D7272	Tooth transplantation (includes reimplantation from one site to another and splinting and/or stabilization)	746
D7280	Surgical access of an unerupted tooth	482
D7282	Mobilization of erupted or malpositioned tooth to aid eruption	526
D7283	Placement of device to facilitate eruption of impacted tooth	523
D7285	Biopsy of oral tissue—hard (bone, tooth)	437
D7286	Biopsy of oral tissue—soft	320
D7287	Exfoliative cytological sample collection	184
D7288	Brush biopsy—transepithelial sample collection	195
D7290	Surgical repositioning of teeth	528
D7291	Transseptal fibrotomy/surpa crestal fibrotomy	315
D7292	Surgical placement: temporary anchorage device [screw retained plate] requiring surgical flap	3300
D7293	Surgical placement: temporary anchorage device requiring surgical flap	2528
D7294	Surgical placement: temporary anchorage device without surgical flap	1619
D7295	Harvest of bone for use in autogenous grafting procedure	BR
D7310	Alveoplasty in conjunction with extractions—four or more teeth or tooth spaces, per quadrant	295
D7311	Alveoplasty in conjunction with extractions—one to three teeth or tooth spaces, per quadrant	309

CDT Code	Description	Maximum Reimbursement
D7320	Alveoplasty not in conjunction with extractions—four or more teeth or tooth spaces, per quadrant	443
D7321	Alveoplasty not in conjunction with extractions—one to three teeth or tooth spaces, per quadrant	437
D7340	Vestibuloplasty—ridge extension (secondary epithelialization)	1164
D7350	Vestibuloplasty—ridge extension (including soft tissue graft, muscle reattachment, revision of soft tissue attachment and management of hypertrophied and hyperplastic tissue)	2467
D7410	Excision of benign lesion up to 1.25 cm	415
D7411	Excision of benign lesion greater than 1.25 cm	630
D7412	Excision of benign lesion, complicated	850
D7413	Excision of malignant lesion greater than 1.25 cm	751
D7414	Excision of malignant lesion up to 1.25 cm	1132
D7415	Excision of malignant lesion, complicated	1253
D7465	Destruction of lesion(s) by physical or chemical method	459
D7440	Excision of malignant tumor—lesion diameter up to 1.25 cm	720
D7441	Excision of malignant tumor—lesion greater than 1.25 cm	1224
D7450	Removal of benign odontogenic cyst or tumor—lesion diameter up to 1.25 cm	588
D7451	Removal of benign odontogenic cyst or tumor—lesion diameter greater than 1.25 cm	782
D7460	Removal of benign nonodontogenic cyst or tumor—lesion diameter greater than 1.25 cm	573
D7461	Removal of benign nonodontogenic cyst or tumor—lesion diameter up to 1.25 cm	874
D7470	Removal of lateral exostosis (maxilla or mandible)	653
D7472	Removal of torus palatinus	859
D7473	Removal of torus mandibularis	761
D7485	Surgical reduction of osseous tuberosity	755
D7490	Radial resection of maxilla or mandible	8006
D7510	Incision and drainage of abscess—intraoral soft tissue	236
D7511	Incision and drainage of abscess—intraoral soft tissue—complicated (includes drainage of multiple fascial spaces)	367
D7520	Incision and drainage of abscess—extraoral tissue	169
D7521	Incision and drainage of abscess—extraoral tissue—complicated (includes drainage of multiple fascial spaces)	630
D7530	Removal of foreign body from mucosa, skin, or subcutaneous alveolar tissue	364
D7540	Removal of reaction producing foreign bodies, musculoskeletal system	708
D7550	Partial osteotomy/sequestrectomy for removal of non-vital bone	600
D7560	Maxillary sinusotomy for removal of tooth fragment or foreign body	1308
D7610	Maxilla—open reduction (teeth immobilized, if present)	4464
D7620	Maxilla—closed reduction (teeth immobilized, if present)	3450
D7630	Mandible—open reduction (teeth immobilized, if present)	4576
D7640	Mandible—closed reduction (teeth immobilized, if present)	3483
D7650	Malar and/or zygomatic arch—open reduction	3924
D7660	Malar and/or zygomatic arch—closed reduction	3277
D7670	Alveolus closed reduction may include stabilization of teeth	1746
D7671	Alveolus open reduction may include stabilization of teeth	1298
D7680	Facial bones—complicated reduction with fixation and multiple surgical approaches	6555

CDT Code	Description	Maximum Reimbursement
D7710	Maxilla open reduction	4568
D7720	Maxillia—closed reduction	3462
D7730	Mandible—open reduction	4826
D7740	Mandible—closed reduction	3636
D7750	Malar and/or zygomatic arch—open reduction	4230
D7760	Malar and/or zygomatic arch—closed reduction	6044
D7770	Alveolus open reduction stabilization of teeth	2794
D7771	Alveolus closed reduction stabilization of teeth	1958
D7780	Facial bones—complicated reduction with fixation and multiple surgical approaches	8587
D7810	Open reduction of dislocation	4271
D7820	Closed reduction of dislocation	644
D7830	Manipulation under anesthesia	990
D7840	Condylectomy	5466
D7850	Surgical discectomy, with/without implant	5356
D7852	Disc repair	5541
D7854	Synovectomy	5278
D7856	Myotomy	3505
D7858	Joint reconstruction	BR
D7860	Arthrotomy	BR
D7865	Arthroplasty	BR
D7870	Arthrocentesis	562
D7871	Non-arthroscopic lysis and lavage	BR
D7872	Arthroscopy—diagnosis, with or without biopsy	BR
D7873	Arthroscopy—surgical: lavage and lysis of adhesions	BR
D7874	Arthroscopy—surgical: disc repositioning and stabilization	BR
D7875	Arthroscopy—surgical: synovectomy	BR
D7876	Arthroscopy—surgical: discectomy	BR
D7877	Arthroscopy—surgical: debridement	BR
D7880	Occlusal orthotic device	990
D7899	Unspecified TMD therapy	BR
D7910	Suture of recent small wounds up to 5 cm	300
D7911	Complicated suture—up to 5 cm	486
D7912	Complicated suture—greater than 5 cm	792
D7920	Skin graft (identify defect covered, location and type of graft)	2677
D7940	Osteoplasty—for orthognathic deformaties	4123
D7941	Osteotomy—mandibular rami	9139
D7943	Osteotomy—mandibular rami with bone graft; includes obtaining the graft	8623
D9744	Osteotomy—segmented or subapical	7006
D7945	Osteotomy—body of mandible	6983
D7946	LeFort I (maxillia—total)	8251
D7947	LeFort I (maxillia—segmented)	8393
D7948	LeFort II or LeFort III (osteoplasty of facial bones for midface hypoplasia or retrusion)—without bone graft	9586
D7949	LeFort II of LeFort III—with bone graft	11832
D7950	Osseous, osteoperiosteal or cartilage graft of the mandible or maxillia—autogenous or nonautogenous	3116
D7951	Sinus augmentation with bone or bone substitutes	3200
D7953	Bone replacement graft for ridge preservation—per site	800
D7955	Repair of maxillofacial soft and/or hard tissue defect	3807
D7960	Frenulectomy—also known as frenectomy or frenotomy—separate procedure not incidental to another procedure	450
D7936	Frenuloplasty	499
D7970	Excision of hyperplastic tissue—per arch	517
D7971	Excision of pericoronal gingiva	258
D7972	Surgical reduction of fibrous tuberosity	796
D7980	Sialolithotomy	843
D7981	Excision of salivary gland	BR

CDT Code	Description	Maximum Reimbursement
D7982	Sialodochoplasty	1749
D7983	Closure of salivary fistula	1528
D7990	Emergency tracheotomy	1482
D7991	Coronoidectomy	4056
D7995	Synthetic graft—mandible or facial bones	BR
D7996	Implant-mandible for augmentation purposes (excluding alveolar ridge)	BR
D7997	Appliance removal (not by dentist who place appliance), includes removal of archbar	350
D7998	Intraoral placement of a fixation device not in conjunction with a fracture	2572
D7999	Unspecified oral surgery procedure	BR
D8010	Limited orthodontic treatment of the primary dentition	2149
D8020	Limited orthodontic treatment of the transitional dentition	2459
D8030	Limited orthodontic treatment of the adolescent dentition	2901
D8040	Limited orthodontic treatment of the adult dentition	3237
D8050	Interceptive orthodontic treatment of the primary dentition	2590
D8060	Interceptive orthodontic treatment of the transitional dentition	2796
D8070	Comprehensive orthodontic treatment of the transitional dentition	5200
D8080	Comprehensive orthodontic treatment of the adolescent dentition	5250
D8090	Comprehensive orthodontic treatment of the adult dentition	5308
D8210	Removable appliance therapy	861
D8220	Fixed appliance therapy	968
D8660	Pre-orthodontic treatment visit	384
D8670	Periodic orthodontic treatment visit (as part of contract)	263
D8680	Orthodontic retention (removal of appliances, construction and placement of retainers(s))	532
D8690	Orthodontic treatment (alternative billing to a contract fee)	283
D8691	Repair of orthodontic appliance	210
D8692	Replacement of lost or broken retainer	330
D8693	Rebonding or recementing; and/or repair as require, of fixed retainers	356
D8999	Unspecified orthodontic procedure,	BR
D9110	Palliative (emergency) treatment of dental pain—minor procedure	126
D9120	Fixed partial denture sectioning	250
D9210	Local anesthesia not in conjunction with operative or surgical procedures	74
D9211	Regional block anesthesia	96
D9212	Trigeminal division block anesthesia	272
D9215	Local anesthesia in conjunction with operative or surgical procedures	65
D9220	Deep sedation/general anesthesia—first 30 minutes	392
D9221	Deep sedation/general anesthesia—each additional 15 minutes	174
D9230	Inhalation of nitrous oxide/anxiolysis analgesia	79
D9241	Intravenous conscious sedation/analgesia—first 30 minutes	416
D9242	Intravenous conscious sedation/analgesia—each additional 15 minutes	169
D9248	Non-intravenous conscious sedation	325
D9310	Consultation—diagnostic services provided by dentist or physician other than requesting dentist or physician	129
D9410	House/extended care facility call	246
D9420	Hospital or ambulatory surgery center call	299

CDT Code	Description	Maximum Reimbursement
D9430	Office visit for observation (during regularly scheduled hours)—no other services performed	76
D9440	Office visit after regularly scheduled hours	179
D9450	Case presentation, detailed and extensive treatment planning	145
D9610	Therapeutic parental drug, single administration	111
D9612	Therapeutic parental drug, two or more administrations, different medications	193
D9630	Other drugs and/or medicaments	49
D9910	Application of desensitizing medicament	63
D9911	Application of desensitizing resin for cervical and/or root surface, per tooth	79
D9920	Behavior management	160
D9930	Treatment of complications (post-surgical)—unusual circumstances	132
D9940	Occlusal guard,	600
D9941	Fabrication of athletic mouthguard	254
D9942	Repair and/or reline of occlusal guard	250
D9950	Occlusion analysis—mounted case	344
D9951	Occlusal adjustment—limited	182
D9952	Occlusal adjustment—complete	687
D9970	Enamel microabrasion	202
D9971	Odontoplasty 1-2 teeth; includes removal of enamel projections	176
D9972	External bleaching—per arch	328
D9973	External bleaching—per tooth	231
D9974	Internal bleaching—per tooth	291
D9999	Unspecified adjunctive procedure	BR

Public Hearing

A public hearing will be held on November 30, 2015, at 9:30 a.m. at the Office of Workers' Compensation located at 1001 North Twenty-Third Street at the main campus of the Workforce Commission, in Baton Rouge, LA. The public is invited to attend.

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Medical Treatment Guidelines**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Title 40 Labor and Employment, Part I Workers' Compensation Administration, Subpart 2 Medical Guidelines, Chapters 25, 27, 51, and 53 to accommodate implantation of the International Classification of Diseases, Tenth Edition (ICD-10). The proposed rule updates medical coding and billing in workers' compensation claims in order to maintain consistency with the implementation of ICD-10 coding by the U.S. healthcare industry.

Besides the cost to publish in the *Louisiana Register*, the proposed rule will not require any additional expenditure by the Office of Workers' Compensation (OWCA) nor will the proposed rule result in any savings to OWCA. Likewise, OWCA does not anticipate that the proposed rule will result in any costs or savings to other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule will have 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)

OWCA does not anticipate that the proposed rule will produce a direct economic benefit to any person. It is anticipated that the proposed rule will provide an indirect benefit to all stakeholders within the workers' compensation community by maintaining consistent medical billing and coding procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Patrick Robinson
Director
1510#055

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:1167 (September 1993), amended LR 20:1298 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 39:2043 (July 2013), LR 40:379 (February 2014), LR 42:

Family Impact Statement

This amendment to Title 40 should have no impact on families in accordance with R.S. 49:953.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known impact on providers as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments should be sent to Patrick Robinson, OWC-Administration, 1001 North Twenty-Third Street, Baton Rouge, LA 70802. Such comments should be received by November 10, 2015 by COB.

Administrative Code Update

CUMULATIVE: January-September 2015

		Location:					Location:				
LAC Title	Part #.Section #	Action	Month	LR 41 Page#	LAC Title	Part #.Section #	Action	Month	LR 41 Page#		
4	V.Chapter 15	Amended	June	1043	31	II.108	Adopted	Apr.	759		
	V.Chapter 27	Amended	May	882		32	I.101,301,703-901,1101-1109	Amended	Feb.	338	
	XV.101,301,501,503,701	Amended	Jan.	46			I.103,303-521,701,903	Adopted	Feb.	338	
	XV.303	Repealed	Jan.	46			I.721,905,1301	Repealed	Feb.	338	
				III.Chapter 1	Adopted		Feb.	338			
7	V.Chapter 27	Adopted	Feb.	332	33	III.Chapter 2-7	Repealed	Feb.	338		
	XIII.121,719	Amended	May	911		V.101,203-507	Adopted	Feb.	338		
	XIII.767	Adopted	May	911		V.103-109,309-325,409-423,601-703	Repealed	Feb.	338		
	XXV.101,141	Amended	Feb.	333		V.201	Amended	Feb.	338		
	XXXIX.913	Adopted	Aug.	1480		IX.Chapters 1-7	Repealed	Feb.	338		
	XXXIX.914	Amended	Aug.	1480							
10	XI.Chapter 11	Adopted	Mar.	537	33	III.503,519	Amended	Feb.	346		
13	I.1107	Amended	June	1084		III.507,2160,3003,5116,5122,5311,5901	Amended	July	1273		
						III.711	Amended	Apr.	669		
16	II.Chapter 8	Adopted	Sept.	1773		IX.2905	Amended	Mar.	536		
	II.Chapter 9	Adopted	Feb.	401		XV.102,301,304,322,324,328,361,399,460	Amended	July	1276		
22	I.316	Amended	Sept.	1764	34	XV.465,499,541,731,1302	Amended	July	1276		
	I.331	Amended	July	1307		III.313	Amended	Feb.	336		
	V.119,205	Amended	Jan.	42		V.301,303,905,2506,2539,2542,2545	Amended	July	1281		
	XI.102,103,117,307,501,503,507,511,514	Amended	Jan.	42		V.901,2503,2506,2521,2534	Repromulgated	Sept.	1668		
	XI.504,505,801,803,805,807	Adopted	Jan.	42		V.2101,2518,2521	Amended	Apr.	670		
	XI.802	Amended	Sept.	1667		V.2545-2549,2587-2596,3103	Repromulgated	Sept.	1668		
	XI.807	Repealed	Sept.	1667		XIII.Chapters 3-25	Adopted	Mar.	541		
	XI.809	Adopted	Sept.	1667		XIII.511,1902	Amended	June	1119		
	XIII.301	Amended	Aug.	1487							
	XIII.303,503	Amended	Sept.	1668		35	I.1505	Amended	Sept.	1673	
	XV.Chapter 19	Adopted	Jan.	48			I.1725	Amended	Sept.	1671	
							I.1787	Amended	Sept.	1672	
							XI.9905	Amended	Sept.	1673	
	28	I.1501	Adopted	July		1273	37	XIII.Chapter 1	Amended	July	1295
		IV.113,502	Adopted	Apr.		649		XIII.114,126,141,143	Adopted	July	1295
IV.301,501,503,505,507,701,703,705,801		Amended	Apr.	658							
IV.301,703,803,1703,2103,2113		Amended	Apr.	649	40	I.2519	Amended	May	981		
IV.703		Amended	Feb.	343		I.2519	Repromulgated	Sept.	1774		
IV.703		Amended	Aug.	1486		I.5507	Amended	Mar.	560		
IV.805,1903,2103		Amended	Apr.	658	42	III.1701	Amended	Aug.	1496		
IV.1001,1005,1007,1009,1011,1013		Amended	Feb.	344		III.2108	Amended	Aug.	1497		
IV.1003		Amended	Apr.	668		III.2109	Amended	Aug.	1497		
IV.1003,1017		Adopted	Feb.	344		III.2114	Amended	Aug.	1498		
IV.1015,1901		Amended	Feb.	344		III.2721	Amended	Aug.	1495		
VI.301		Amended	Apr.	669		III.2737	Amended	Aug.	1494		
VI.315		Amended	Aug.	1486		III.2915	Amended	Aug.	1494		
XXXIX.307		Repealed	July	1271		III.2955	Amended	Aug.	1497		
XXXIX.503,701		Amended	July	1271		III.4204	Amended	Aug.	1497		
XLV.501		Amended	May	918		XI.2405	Amended	Aug.	1498		
LXXIX.2102,2319		Amended	July	1268		XI.2424	Amended	Aug.	1498		
LXXIX.2108		Adopted	Aug.	1485							
LXXIX.2109		Amended	May	915	43	I.Chapters 9-11	Repealed	Sept.	1724		
LXXIX.2109,3303		Amended	Aug.	1485		I.1509	Amended	Jan.	150		
LXXXIII.301		Amended	Aug.	1481		V.Chapters 5-9	Repromulgated	Sept.	1724		
LXXXIII.303,519		Amended	July	1262		XIX.Chapter 1	Amended	May	951		
LXXXIII.613		Amended	Apr.	615		XIX.137	Repromulgated	June	1120		
XCVII.503,505		Amended	Mar.	535		XIX.507	Amended	May	951		
CXI.3307		Amended	Apr.	616		46	XIX.Chapter 13	Amended	Sept.	1664	
CXV.339,1103		Amended	Feb.	342			XXI.1103	Amended	Feb.	334	
CXV.701		Amended	Jan.	41			XXI.1303	Adopted	Feb.	335	
CXV.2313		Amended	Apr.	643			XXIX.119	Adopted	Mar.	536	
CXV.2314,2357		Amended	Aug.	1484	XXXIII.Chapter 1		Amended	July	1284		
CXV.2318		Amended	May	915	XXXIII.504		Repealed	July	1284		
CXV.2318,2319		Amended	Aug.	1482	XXXIII.504		Adopted	July	1284		
CXV.2320		Adopted	Aug.	1482	XXXIII.508		Amended	July	1284		
CXV.2321		Repromulgated	Aug.	1482	XXXIII.1607		Amended	July	1283		
CXV.2323	Adopted	Apr.	643	XL.Chapter 1-7	Amended		May	919			
CXXXI.Chapters 2,6	Amended	Apr.	644	XL.303	Amended		Aug.	1487			
CXXXI.Chapters 2,6	Amended	July	1269	XLV.1521,4505,4506,4511	Amended		May	925			
CXXXI.204,344,604	Adopted	May	915	XLV.4512	Adopted	May	925				
CXXXI.243,341,605	Amended	May	915	XLVII.3327	Amended	June	1085				
CXXXIX.518,1303,1503,1703,2709	Amended	July	1263	XLIX.703,903,1201	Amended	Jan.	96				
CXXXIX.2801	Adopted	July	1263	XLIX.1105	Amended	Jan.	96				
CXLVII.301,303,305,309,701	Amended	July	1266	LIII.1217,1509	Amended	Aug.	1488				
CXLIX.Chapter 21	Adopted	Feb.	340	LIII.2411,2413,2415	Adopted	Jan.	100				
CLV.103,303,901,1303	Amended	Jan.	40	LIII.2511	Amended	Jan.	98				
CLVII.309	Amended	Feb.	341	LIII.2531,2533,2535	Amended	Jan.	97				
CLXI.Chapters 1-21	Adopted	Apr.	616								
CLXIII.501,503	Adopted	Feb.	341								
31	II.107,109	Amended	Apr.	759							

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:		
			Month	LR 41 Page#				Month	LR 41 Page#	
46	LIII.2537	Repealed	Jan.	97	50	XV.27503	Amended	Jan.	133	
	LIII.2745,2747	Amended	Apr.	684		XIX.Chapter 43	Amended	Mar.	539	
	LIII.2901,2911	Amended	Apr.	684		XXI.Chapter 29	Amended	Feb.	379	
	LV.1003	Amended	Apr.	762		XXI.5903	Adopted	July	1288	
	LX.Chapters 1-47	Amended	Apr.	709		XXI.11107,11303,11527,11529,11703	Amended	Jan.	125	
	LX.601-611,705,707,801,803,1327,3317	Adopted	Apr.	709		XXI.11527	Repromulgated	Mar.	538	
	LX.705,801,803	Repealed	Apr.	709		XXI.11531	Adopted	July	1286	
	LX.3309	Repromulgated	Apr.	709		XXI.11901,11905,12101	Amended	Jan.	125	
	LX.3927	Adopted	Apr.	709		XXI.14201	Adopted	July	1287	
	LXI.717	Amended	Aug.	1499		XXI.16705	Adopted	July	1287	
	LXI.1503	Amended	June	1122		XXXIII.103	Amended	July	1286	
	LXVII.10301-10303,10308-10313,10417	Amended	Feb.	368		XXXIII.4303,4501	Amended	Feb.	384	
	LXVII.10307	Repealed	Feb.	368		XXXIII.6103,6301,6303,6501	Amended	Feb.	377	
	LXIX.101,103,107,109,111,112,113,115	Amended	Sept.	1674		51	I.113	Amended	Jan.	148
	LXIX.117,301,503,505	Amended	Sept.	1674			XIV.411,609	Amended	Feb.	389
48	I.Chapter 44	Repealed	Apr.	685	52	I.1312,1318,1319,1320,1321,1322,1906	Repealed	July	1262	
	I.Chapter 44	Adopted	Apr.	685		I.1703	Amended	July	1262	
	I.5237,5247,5257,12501,12503	Amended	Jan.	133	55	I.2101	Amended	Sept.	1772	
	I.Chapters 53-54	Adopted	Jan.	101		III.151	Amended	Jan.	150	
	I.Chapters 56-57	Adopted	Sept.	1681		V.3239	Repealed	May	954	
	I.Chapter 62	Amended	July	1292		IX.107,159,163,166,201,205,1507,1543	Amended	Feb.	395	
	I.Chapter 68	Adopted	June	1086		IX.113	Amended	Feb.	394	
	I.Chapters 68,88	Repealed	June	1086	IX.203	Repealed	Feb.	395		
	I.Chapter 74	Repealed	Sept.	1681	58	I.405,407	Amended	Sept.	1772	
	I.9501	Amended	Aug.	1488		III.Chapter 17	Adopted	Feb.	397	
	I.12508	Adopted	Jan.	133		61	I.1912	Adopted	Mar.	555
	I.Chapters 191,193,195	Adopted	Jan.	137	I.4915		Adopted	Jan.	151	
	I.19119	Adopted	May	950	III.2101		Amended	Mar.	557	
	I.Chapter 201	Amended	Feb.	385	III.2103		Adopted	Mar.	558	
	III.Chapter 5	Repealed	Sept.	1681	V.101,304,703,907,1103,1307,1503,2503		Amended	Apr.	671	
IX.334	Adopted	Jan.	146	V.3101,3103,3105,3106,3107,3501	Amended	Apr.	671			
IX.Chapter 7	Amended	Aug.	1490	67	III.405	Amended	Mar.	534		
50	I.Chapters 31-40	Amended	May		928	III.1942	Adopted	Mar.	533	
	I.3303,3305,3723,3725,3727,3729,3731	Repealed	May		928	III.Chapter 51	Amended	Mar.	531	
	I.3711,3713	Adopted	May		928	III.5541	Amended	May	914	
	I.3733,3735,3737,3743	Repealed	May		928	III.5579	Adopted	May	914	
	II.10156	Amended	July	1289	VII.Chapter 1	Amended	Sept.	1774		
	II.20005	Amended	Apr.	707	VII.519	Amended	July	1312		
	II.20005	Amended	May	949	VII.Chapter 11	Repealed	Feb.	385		
	II.20021	Amended	Jan.	133	69	I.Chapters 1-11	Adopted	June	1080	
	III.505	Adopted	Aug.	1489		70	III.801,805	Amended	May	954
	III.2305	Adopted	June	1118			III.803	Adopted	May	954
	III.2327,2529,10307	Adopted	May	945			III.807,809	Repealed	May	954
	III.10705	Amended	May	945			XI.101	Amended	Mar.	560
	III.20103	Amended	July	1292	76		I.Chapter 5	Amended	Jan.	39
	III.20301,20303	Amended	Apr.	708		V.111	Amended	June	1123	
	III.Chapter 205	Amended	July	1291		V.115	Amended	Jan.	152	
V.953	Amended	Jan.	133	VII.198		Adopted	Aug.	1499		
VII.32903	Amended	Mar.	539	VII.347		Adopted	May	956		
IX.8305,8505	Amended	July	1289	VII.367		Amended	Jan.	154		
IX.15113	Amended	Mar.	541	VII.377		Amended	Apr.	761		
IX.15113	Amended	June	1119	VII.381		Adopted	Apr.	760		
IX.15113	Amended	July	1291	VII.383		Adopted	June	1123		
XI.301	Amended	Apr.	707	VII.537		Adopted	July	1309		
XI.303	Repealed	Apr.	707	XIX.Chapter 1		Amended	May	958		
XIII.901,905	Adopted	July	1288							
XV.Chapters 1-7	Adopted	May	926							
XV.Chapters 33-43	Amended	Jan.	129							
XV.9141	Amended	Apr.	708							
XV.10701	Amended	Aug.	1490							
XV.Chapter 115	Adopted	Sept.	1723							
XV.12901,12913	Amended	Mar.	540							
XV.25101,25301,25501	Amended	Feb.	378							

Potpourri

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Division

Request for Delegation—Federal Plan

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits Division, Manufacturing Section, will request delegation of the federal plan to meet the state's obligation in Clean Air Act section 111(d)/129 as it relates to 40 CFR 60, subpart MMMM, emission guidelines and compliance times for existing sewage sludge incineration units.(1510Pot1)

In accordance with 40 CFR 60.5045, in lieu of a state plan submittal, a state may meet its Clean Air Act section 111(d)/129 obligation by submitting a written request for delegation of the federal plan.

A public hearing will be held on November 24, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed request for delegation for authority. Comments gathered as such hearing will be submitted as an addendum to the original submittal. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments concerning the delegation of authority no later than 4:30 p.m., November 24, 2015, to Vivian H. Aucoin, Office of Environmental Services, P.O. Box 4313, Baton Rouge, LA. 70821-4313, (225) 219-3240, or by email to vivian.aucoin@la.gov.

A copy of the request for delegation for authority may be viewed at www.deq.la.gov/portal/DIVISION/AirPermitsEngineeringandPlanning or the LDEQ headquarters at 602 North Fifth Street, Room 536-03, Baton Rouge, LA 70802.

Herman Robinson, CPM
Executive Counsel

1510#038

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill—Draft Programmatic
Damage Assessment and Restoration Plan and
Programmatic Environmental Impact Statement

ACTION

Notice of Availability of Draft Plan

SUMMARY

In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the federal and state Deepwater Horizon oil spill (the oil spill) natural resource trustee agencies for Louisiana, Mississippi, Alabama, Texas, and Florida (trustees) have prepared a Draft Programmatic Damage Assessment and Restoration Plan and Programmatic Environmental Impact Statement (PDARP/PEIS). As required by the OPA, the draft PDARP/PEIS presents the assessment of the impacts of the oil spill, which occurred on April 20, 2010, on natural resources in the Gulf of Mexico and on the services those resources provide, and determines the restoration needed to compensate the public for the impacts. The draft PDARP/PEIS also describes the trustees' programmatic alternatives considered to restore natural resources, ecological services, and recreational use services injured or lost as a result of the oil spill. Criteria and evaluation standards under the OPA natural resource damage assessment regulations guide the trustees' consideration of programmatic restoration alternatives. The draft PDARP/PEIS will evaluate these programmatic restoration alternatives under criteria set forth in the OPA natural resource damage assessment regulations. The draft PDARP/PEIS will also evaluate the environmental consequences of the programmatic restoration alternatives under NEPA. The purpose of this notice is to inform the public of the availability of the draft PDARP/PEIS and to seek public comments on the document.

DATES

Comments Due Date—We will consider public comments received on or before December 4, 2015.

Public Meetings—The trustees will hold a series of public meetings to facilitate public review and comment on the draft PDARP/PEIS. Both written and verbal comments will be taken at each public meeting. The trustees will hold an open house for each meeting followed by a formal meeting. Each public meeting will include a presentation of the draft PDARP/PEIS. Public meetings will be held between October 19th and November 20th. The full public meeting schedule is listed in the "Supplementary Information" section of this notice, and can be found on the internet at http://la-dwh.com/PDARP_PEIS.aspx.

(Please note that these same meetings will also present information on and seek comments regarding the proposed consent decree in *U.S. v. BP Exploration and Production, et al*, Civil No. 10-4536 (E.D. La.) (centralized in MDL 2179: *In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*). However, comments should be directed to the consent decree and the PDARP/PEIS separately. The proposed consent decree and directions for comment to the Department of Justice are available at <http://la-dwh.com/ConsentDecree.aspx> and <http://www.justice.gov/enrd/deepwater-horizon>.

ADDRESSES

Obtaining the Document—You may download the Draft PDARP/PEIS at http://la-dwh.com/PDARP_PEIS.aspx. Alternatively, you will be able to request a CD of the document (see “For Further Information Contact” section below). You will also be able to review copies of the document at the public repositories listed at http://la-dwh.com/PDARP_PEIS.aspx.

Submission of Comments—You may submit comments on the draft PDARP/PEIS by one of the following methods:

a) via the web: http://la-dwh.com/PDARP_PEIS.aspx and <http://parkplanning.nps.gov/document.cfm?parkID=534&projectID=60779&documentID=68459>;

b) via U.S. Mail: U.S. Fish & Wildlife Service, P.O. Box 49567, Atlanta, GA 30345. Submissions must be received on or before the comment deadline of December 4, 2015 in order to be considered.

FOR FURTHER INFORMATION CONTACT

Jenny Kurz at jenny.kurz@la.gov.

SUPPLEMENTARY INFORMATION

Background

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252 - MC 252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico. Tragically, 11 workers were killed and 17 injured by the explosion and fire. The well blowout and sinking of the *Deepwater Horizon* resulted in an unprecedented volume of oil and other discharges from the rig, and from the wellhead on the seabed, for a period of over three months. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging approximately 3.19 million of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

Oil from the spill spread from the deep ocean to the surface and the nearshore environment, from Texas to Florida. The oil came into contact with and injured natural resources as diverse as deep-sea coral, fish and shellfish, productive wetland habitats, sandy beaches, birds, endangered sea turtles, and protected marine life. The oil spill prevented people from fishing, going to the beach, and enjoying their typical recreational activities along the Gulf. Extensive response actions were undertaken to reduce the impacts of the oil spill, but they also had collateral impacts on the environment. The oil and other substances released from the well in combination with the extensive response actions together make up the *Deepwater Horizon* incident.

The state and federal Natural Resource Trustees (trustees) are in the final stages of conducting the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 et seq.). Pursuant to OPA, federal and state agencies and Indian tribes may act as trustees on behalf of the public to assess natural resource injuries and losses, and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration,

rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Department of Defense (DOD);
- U.S. Environmental Protection Agency (USEPA);
- state of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator’s Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- state of Mississippi Department of Environmental Quality;
- state of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- state of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- for the state of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

On February 17, 2011, the trustees initiated a 90-day formal scoping and public comment period for this draft PDARP/PEIS (76 FR 9327) through a Notice of Intent (NOI) to Begin Restoration Scoping and Prepare a Gulf Spill Restoration Planning PEIS. The trustees conducted the scoping in accordance with OPA (15 CFR 990.14(d)), NEPA (40 CFR 1501.7), and state authorities. That NOI requested public input to identify and evaluate a range of restoration types that could be used to fully compensate the public for the environmental and recreational use damages caused by the spill, as well as develop procedures to select and implement restoration projects that will compensate the public for the natural resource damages caused by the spill. As part of the scoping process, the trustees hosted public meetings across all of the Gulf States during spring 2011.

Overview of the Draft PDARP/PEIS

The draft PDARP/PEIS is being released in accordance with the OPA, the Natural Resources Damage Assessment (NRDA) regulations found in the *Code of Federal Regulations* (CFR) at 15 CFR part 990, and the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.). In the draft PDARP/PEIS, the *Deepwater Horizon* trustees present to the public their findings on the extensive injuries to multiple habitats, biological species, ecological functions, and geographic regions across the northern Gulf of Mexico that occurred as a result of the *Deepwater Horizon* incident, as well as their programmatic plan for restoring those resources and the services they provide. In particular, they considered restoration types and approaches to restore,

replace, rehabilitate, or acquire the equivalent of the injured natural resources and services. The draft PDARP/PEIS proposes four programmatic alternatives evaluated in accordance with OPA and NEPA. The trustees decided to fulfill NEPA requirements by conducting a PEIS that evaluates broad (as opposed to project-specific) restoration alternatives. As the draft PDARP/PEIS shows, the injuries caused by the Deepwater Horizon incident cannot be fully described at the level of a single species, a single habitat type, or a single region. Rather, the injuries affected such a wide array of linked resources over such an enormous area that the effects of the Deepwater Horizon incident constitute an ecosystem-level injury. Consequently, the trustees' preferred alternative for a restoration plan employs a comprehensive, integrated ecosystem approach to best address these ecosystem-level injuries. The trustees' evaluation determines this alternative is best, among several other alternatives, at compensating the public for the losses to natural resources and services caused by the Deepwater Horizon incident.

The four alternatives under the draft PDARP/PEIS are as follows:

- Alternative A (Preferred Alternative): Comprehensive Integrated Ecosystem Restoration Plan based on the programmatic Trustee goals;
- Alternative B: Resource-Specific Restoration Plan based on the programmatic Trustee goals;
- Alternative C: Continued Injury Assessment and Defer Comprehensive Restoration Plan; and
- Alternative D: No Action/Natural Recovery.

The trustees have jointly examined and assessed the extent of injury and the restoration alternatives. The trustees believe that the preferred alternative in this draft PDARP/PEIS is most appropriate for addressing the injuries to natural resources. The trustees' proposed decision is to select a comprehensive restoration plan to guide and direct subsequent restoration planning and implementation during the coming decades. The draft PDARP/PEIS is programmatic; it describes the framework by which subsequent project specific restoration plans will be identified and developed, and sets forth the types of projects the trustees will consider in each of several described restoration areas. The subsequent restoration plans would identify, evaluate, and select specific restoration projects for implementation that are consistent with the restoration framework laid out by the PDARP/PEIS. The trustees are considering this programmatic restoration planning decision in light of the proposed proposed settlement among BP, the United States and the states of Louisiana, Mississippi, Alabama, Florida, and Texas to resolve BP's liability for natural resource damages associated with the Deepwater Horizon incident. Under this proposed settlement, BP would pay a total of \$8.1 billion for restoration to address natural resource injuries (this includes \$1 billion already committed for early restoration), plus up to an additional \$700 million to respond to natural resource damages unknown at the time of the settlement and/or to provide for adaptive management.

Next Steps

The public is encouraged to review and comment on the draft PDARP/PEIS. As described above, public meetings are scheduled to facilitate the public review and comment process. After the close of the public comment period, the

trustees will consider and address the comments received before issuing a final PDARP/PEIS. A summary of comments received and the trustees' responses will be included in the final document. After issuing the final PDARP/PEIS, the trustees will prepare a record of decision that formally selects an alternative.

As noted above, the public is separately encouraged to review and comment on the proposed consent decree through a different process managed by the Department of Justice. A link to the proposed consent decree and directions for comment to the Department of Justice is available at <http://www.justice.gov/enrd/deepwater-horizon>.

Public Meeting Schedule		
Date	Time (local times)	Location
Mon., Oct. 19, 2015	5:00 PM Open House 6:00 PM Public Meeting	Courtyard by Marriott – Houma Versailles Parlour 142 Library Boulevard Houma, LA 70360
Tues., Oct. 20, 2015	5:00 PM Open House 6:00 PM Public Meeting	University of Southern Mississippi, Long Beach FEC Auditorium 730 East Beach Boulevard Long Beach, MS 39560
Thurs., Oct. 22, 2015	5:00 PM Open House 6:00 PM Public Meeting	Hilton Garden Inn New Orleans Convention Center Garden Ballroom 10001 South Peters St. New Orleans, LA 70130
Mon., Oct. 26, 2015	6:00 PM Open House 7:00 PM Public Meeting	The Battle House Renaissance Mobile Hotel & Spa Moonlight Ballroom A 26 N Royal St. Mobile, AL 36602
Tues., Oct. 27, 2015	6:00 PM Open House 7:00 PM Public Meeting	Pensacola Bay Center 201 E Gregory St. Pensacola, FL 32502
Thurs., Oct. 29, 2015	6:00 PM Open House 7:00 PM Public Meeting	Hilton St. Petersburg Bayfront Salon AB 333 1st Street South St. Petersburg, FL 33701
Tues., Nov. 10, 2015	6:00 PM Open House 7:00 PM Public Meeting	Hilton Galveston Island Resort Crystal Ballroom 5400 Seawall Boulevard Galveston, TX 77551
Wed., Nov. 18, 2015	6:00 PM Open House 7:00 PM Public Meeting	DoubleTree by Hilton Hotel Terrace Ballroom 1515 Rhode Island Avenue NW Washington, DC 20005

Invitation to Comment

The trustees seek public review and comment on the assessment of the trustees' natural resources and restoration alternatives and supporting analysis included in the draft PDARP/PEIS. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time.

Administrative Record

When they are completed, the documents comprising the administrative record will be available electronically at the following locations:

- http://www.doi.gov/deepwaterhorizon/admin_record;
- or
- <http://la-dwh.com/AdminRecord.aspx>.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), the implementing Natural Resource Damage Assessment regulations found at 15 CFR 990, the Louisiana Oil Spill Prevention and Response Act [La. R.S. §§30:2451-2496 (2010)], and the implementing Natural Resource Damage Assessment Regulations found at La. Admin. Code 43:101 et seq.

¹Although a trustee under OPA by virtue of the proximity of its facilities to the Deepwater Horizon oil spill, DOD is not a member of the Trustee Council and does not currently participate in Trustee decision making.

Kyle Graham
Executive Director

1510#053

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill—Proposed Consent Decree

ACTION

Notice of Lodging of Consent Decree

SUMMARY

Under the Oil Pollution Act of 1990 (OPA) and the Clean Water Act (CWA), notice is hereby given that on October 5, 2015, a proposed Consent Decree (“decree”) was lodged in *U.S. v. BP Exploration and Production, et al*, Civil No. 10-4536 (E.D. La.) (centralized in MDL 2179: *In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*). In this civil enforcement resulting from the Deepwater Horizon oil spill (“the oil spill”), the federal and state natural resource trustee agencies for Louisiana, Mississippi, Alabama, Texas, and Florida (“trustees”) sought, among other things, civil penalties under section 311(b) of the CWA, and a declaration of liability for natural resource damages under the OPA against BP Exploration and Production Company, Inc. (“BP”). The claims arise against BP (and other defendants as well) from the discharge of oil into the Gulf of Mexico resulting from the blowout of the Macondo Well that began on April 20, 2010.

DATES

Comments Due Date—The trustees will consider public comments received on or before December 4, 2015.

Public Meetings—The trustees will hold a series of public meetings to receive information and comments on the Decree. Both written and verbal comments will be taken at each public meeting. The Trustees will hold an open house for each meeting followed by a formal meeting. Each public meeting will include a presentation of the proposed Decree. Public meetings will be held between October 19th and November 20th. The full public meeting schedule is listed in the “Supplementary Information” section of this notice, and can be found on the internet at <http://la-dwh.com/ConsentDecree.aspx>.

Please note that these same meetings will also present information on and seek comments regarding the Draft Programmatic Damage Assessment and Restoration Plan and Programmatic Environmental Impact Statement (PDARP/PEIS) for the Deepwater Horizon Oil Spill,

pursuant to the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA). However, comments should be directed to the consent decree and the PDARP/PEIS separately. A link for the draft PDARP/PEIS and directions for providing comment are available at http://la-dwh.com/PDARP_PEIS.aspx.

ADDRESSES

Obtaining the Document—You may download the proposed decree at <http://la-dwh.com/ConsentDecree.aspx> or on the Department of Justice website at <http://www.justice.gov/enrd/deepwater-horizon>. Alternatively, you will be able to request a CD of the document (see “For Further Information Contact” section below).

Submission of Comments—Comments to the Department of Justice related to the decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *U.S. v. BP Exploration and Production, et al*, Civil No. 10-4536 (E.D. La.) (centralized in MDL 2179: *In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*). You may submit comments on the Decree by one of the following methods:

a. via the web: <http://la-dwh.com/ConsentDecree.aspx> and <http://www.justice.gov/enrd/deepwater-horizon>;

b. U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044-7611. Submissions must be received on or before the comment deadline of December 4, 2015 in order to be considered.

FOR FURTHER INFORMATION CONTACT

You may send inquiries or request a copy of the document via email to “Consent Decree Copy” at EESDCopy.ENRD@usdoj.gov.

SUPPLEMENTARY INFORMATION

Background

On or about April 20, 2010, the mobile offshore drilling unit Deepwater Horizon, which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252 - MC 252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico. Tragically, 11 workers were killed and 17 injured by the explosion and fire. The well blowout and sinking of the Deepwater Horizon resulted in an unprecedented volume of oil and other discharges from the rig, and from the wellhead on the seabed, for a period of over three months. The Deepwater Horizon oil spill is the largest oil spill in U.S. history, discharging approximately 3.19 million barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

Oil from the spill spread from the deep ocean to the surface and the nearshore environment, from Texas to Florida. The oil came into contact with and injured natural resources as diverse as deep-sea coral, fish and shellfish, productive wetland habitats, sandy beaches, birds, endangered sea turtles, and protected marine life. The oil spill prevented people from fishing, going to the beach, and enjoying their typical recreational activities along the Gulf.

Extensive response actions were undertaken to reduce the impact of the oil spill, but they also had collateral impacts on the environment. The oil and other substances released from the well in combination with the extensive response actions together make up the *Deepwater Horizon* incident.

The Trustees are in the final stages of conducting the natural resource damage assessment for the Deepwater Horizon oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 et seq.). Pursuant to OPA, federal and state agencies and Indian tribes may act as trustees on behalf of the public to assess natural resource injuries and losses, and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Department of Defense (DOD);¹
- U.S. Environmental Protection Agency (USEPA);
- state of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- state of Mississippi Department of Environmental Quality;
- state of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- state of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- for the state of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Overview of the Proposed Consent Decree

Under the proposed decree, BP, among other things, will pay the following:

1. a \$5.5 billion civil penalty under the CWA;
2. \$8.1 billion for natural resource damages under the OPA (including the \$1 billion that BP had previously pledged under a prior agreement);
3. \$350 million for state and federal natural resource damage assessment costs; and
4. \$250 million for other federal costs, including removal costs under the OPA, and a False Claims Act penalty.

Next Steps

The public is encouraged to review and comment on the proposed decree. As described above, public meetings are

scheduled to facilitate the public review and comment process. The public is separately encouraged to review and comment on the proposed Deepwater Horizon Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS) through a different process managed by the trustees. A link for the proposed PDARP/PEIS and directions for comment to the trustees is available at http://la-dwh.com/PDARP_PEIS.aspx.

Public Meeting Schedule		
Date	Time (local times)	Location
Mon., Oct. 19, 2015	5:00 PM Open House 6:00 PM Public Meeting	Courtyard by Marriott – Houma Versailles Parlour 142 Library Boulevard Houma, LA 70360
Tues., Oct. 20, 2015	5:00 PM Open House 6:00 PM Public Meeting	University of Southern Mississippi, Long Beach FEC Auditorium 730 East Beach Boulevard Long Beach, MS 39560
Thurs., Oct. 22, 2015	5:00 PM Open House 6:00 PM Public Meeting	Hilton Garden Inn New Orleans Convention Center Garden Ballroom 10001 South Peters St. New Orleans, LA 70130
Mon., Oct. 26, 2015	6:00 PM Open House 7:00 PM Public Meeting	The Battle House Renaissance Mobile Hotel & Spa Moonlight Ballroom A 26 N Royal St. Mobile, AL 36602
Tues., Oct. 27, 2015	6:00 PM Open House 7:00 PM Public Meeting	Pensacola Bay Center 201 E Gregory St. Pensacola, FL 32502
Thurs., Oct. 29, 2015	6:00 PM Open House 7:00 PM Public Meeting	Hilton St. Petersburg Bayfront Salon AB 333 1st Street South St. Petersburg, FL 33701
Tues., Nov. 10, 2015	6:00 PM Open House 7:00 PM Public Meeting	Hilton Galveston Island Resort Crystal Ballroom 5400 Seawall Boulevard Galveston, TX 77551
Wed., Nov. 18, 2015	6:00 PM Open House 7:00 PM Public Meeting	DoubleTree by Hilton Hotel Terrace Ballroom 1515 Rhode Island Avenue, NW Washington, DC 20005

Invitation to Comment

The Department of Justice seeks public review and comment on the proposed decree. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time.

Administrative Record

When they are completed, the documents comprising the administrative record will be available electronically at the following locations:

- <http://www.doi.gov/deepwaterhorizon/adminrecord>; or
- <http://la-dwh.com/AdminRecord.aspx>.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) and the Clean Water Act (33 U.S.C. 1251 et seq.).

¹Although a trustee under OPA by virtue of the proximity of its facilities to the Deepwater Horizon oil spill, DOD is not a member of the Trustee Council and does not currently participate in Trustee decision making.

POTPOURRI
Department of Natural Resources
Office of Conservation

Kyle Graham
 Executive Director

Orphaned Oilfield Sites

1510#052

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.

POTPOURRI
Department of Health and Hospitals
Board of Embalmers and Funeral Directors

Public Hearing—Substantive Changes to
 Proposed Rule—License, Internship and Inspection
 (LAC 46:XXXVII.707, 901, 903, 907, 909, 1107 and 2001)

The board published a Notice of Intent to promulgate §707, 901, 903, 909, 1107, and 2001, License, Internship and Inspection, in the January 20, 2015 edition of the *Louisiana Register* (LR 41:199-201). The notice solicited comments and testimony. As a result of its analysis of the comments and testimony received, the board proposes to amend certain portions of the proposed Rule. Within §1107.B.1, the board proposes to amend the Paragraph by deleting the description of the inspection for displaying funeral merchandise. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 46

PROFESSIONAL AN OCCUPATIONAL STANDARDS

Part XXXVII. Embalmers and Funeral Directors

Chapter 11. Funeral Establishments

§1107. Inspection

A. - B. ...

1. - 1.a. Repealed.

2. - 2.a. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended November 1972, February 1973, amended LR 4:295 (August 1973), LR 4:356 (September 1978), LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:191 (February 1994), LR 20:1380 (December 1994), LR 30:2825 (December 2004), LR 41:

Public Hearing

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968(H)(2), the board gives notice of a public hearing to receive additional comments and testimony on these substantive amendments to the proposed Rule. The hearing will be held at 10 a.m. on Thursday, November 19, 2015 at the office of the Louisiana State Board of Embalmers and Funeral Directors, 3500 North Causeway Blvd., Suite 1232, Metairie, LA 70002. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing.

Kim W. Michel
 Executive Director

1510#004

Operator	Field	District	Well Name	Well Number	Serial Number
Inactive Operator	Caddo Pine Island	S	G A Raines	002	990561
Inactive Operator	Caddo Pine Island	S	G A Raines	003	990562
Desoto Gas Producing Co. Inc	Belle Bower	S	PSU L;Speights	001	104262
C. M. Frizzell	Caddo Pine Island	S	Bradford-Thomas Heirs	001	187664
Delta Development Co. Inc.	Grand Bay	L	Delta GPLD et al	010	113938
H. C. Morris	Monroe	M	D M Pickett	001	7284
La Del Oil Propertes	Monroe	M	W W White	002	7930
La Del Oil Propertes	Monroe	M	W W White	003	8228
George R Schurman	Benson	S	L Hoss RA SUC;Martin TBR Coinc	001	174565
George R Schurman	Spider	S	Vue;Hewitt	001	163008
Henderson Petroleum Corp.	Bayou Choctaw	L	Wilbert Mineral Corp	061	106006
BWM of Louisiana, LLC	Watson	L	15600 Tusc RA SUA;Caraway	001	167768
BWM of Louisiana, LLC	Watson	L	H E Caraway SWD	002	172534

James H. Welsh
 Commissioner

1510#091

POTPOURRI

**Department of Health and Hospitals
Office of Behavioral Health**

Public Hearing—Substantive Changes to Proposed Rule
Opioid Antagonist Administration (LAC 49:I.1199)

The Louisiana Department of Health and Hospitals, Office of Behavioral Health published a Notice of Intent to amend its rules in the September 20, 2015, edition of the *Louisiana Register*. The notice solicited comments. As a result of the consideration of the comments, the Office of Behavioral Health proposed substantive changes. The Office of Behavioral Health proposes the following substantive changes to the originally proposed Notice of Intent: to delete the entirety of the Monitoring section under 1199G. No fiscal or economic impact will result from the amendments proposed in this notice. As substantively amended, these provisions will read as set forth below.

Title 49

PUBLIC HEALTH—FOOD AND DRUGS

Part I. Food, Drugs, and Cosmetics

Chapter 11. Drug Regulations

§1199. Opioid Antagonist Administration and Training

A. - F. ...

G. deleted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:978.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Behavioral Health, LR 41: (September 2015), amended LR 41:

Public Hearing

In accordance with R.S. 49:968(H)(2), the Office of Behavioral Health gives notice that a public hearing to receive comments and testimony on these substantive amendments to the Notice of Intent original proposed will be held November 30, 2015, at 11 a.m. at the Department of Health and Hospitals, Bienville Building, Room 173, 628 N. Fourth Street, Baton Rouge, LA 70804. Interested persons may contact Jen Katzman, Office of Behavioral Health, .O. Box 4049, Baton Rouge, LA 70821 or by email to jennifer.katzman@la.gov. She is responsible for responding to inquiries.

Kathy Kliebert
Secretary

1510#097

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